Senate Engrossed

State of Arizona
Senate
Forty-seventh Legislature
First Regular Session
2005

CHAPTER 241

SENATE BILL 1126

AN ACT

AMENDING SECTIONS 13-3401, 32-1901, 32-1902, 32-1903, 32-1922, 32-1932.01, 32-1940, 32-1968, 36-2513, 36-2523 AND 36-2525, ARIZONA REVISED STATUTES; REPEALING SECTIONS 32-1927, 32-1927.01 AND 32-1932, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 18, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-1901.01; AMENDING TITLE 32, CHAPTER 18, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING NEW SECTIONS 32-1927 AND 32-1927.01 AND SECTION 32-1927.02; RELATING TO THE ARIZONA STATE BOARD OF PHARMACY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 13-3401, Arizona Revised Statutes, is amended to read:

13-3401. Definitions

In this chapter, unless the context otherwise requires:

1. "Administer" means to apply, inject or facilitate the inhalation or ingestion of a substance to the body of a person.

2. "Amidone" means any substance identified chemically as (4-4-diphenyl-6-dimethylamine-heptanone-3), or any salt of such substance, by whatever trade name designated.

3. "Board" means the Arizona state board of pharmacy.

4. "Cannabis" means the following substances under whatever names they may be designated:

(a) The resin extracted from any part of a plant of the genus cannabis, and every compound, manufacture, salt, derivative, mixture or preparation of such plant, its seeds or its resin. Cannabis does not include oil or cake made from the seeds of such plant, any fiber, compound, manufacture, salt, derivative, mixture or preparation of the mature stalks of such plant except the resin extracted from the stalks or any fiber, oil or cake or the sterilized seed of such plant which is incapable of germination.

(b) Every compound, manufacture, salt, derivative, mixture or preparation of such resin or tetrahydrocannabinol.

5. "Coca leaves" means cocaine, its optical isomers and any compound, manufacture, salt, derivative, mixture or preparation of coca leaves, except derivatives of coca leaves which do not contain cocaine, ecgonine or substances from which cocaine or ecgonine may be synthesized or made.

6. "Dangerous drug" means the following by whatever official, common, usual, chemical or trade name designated:

(a) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances and their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

(i) ALPHA-ETHYLTRYPTAMINE.

(ii) AMINOREX.

(iii) 4-BROMO-2, 5-DIMETHOXYPHENETHYLAMINE.

~~(i)~~ (iv) 4-bromo-2, 5-dimethoxyamphetamine.

~~(ii)~~ (v) Bufotenine.

~~(iii)~~ (vi) Diethyltryptamine.

~~(iv)~~ (vii) 2, 5-dimethoxyamphetamine.

~~(v)~~ (viii) Dimethyltryptamine.

~~(vi)~~ (ix) 5-methoxy-3, 4-methylenedioxyamphetamine.

~~(vii)~~ (x) 4-methyl-2, 5-dimethoxyamphetamine.

~~(viii)~~ (xi) Ibogaine.

~~(ix)~~ (xii) Lysergic acid amide.

~~(x)~~ (xiii) Lysergic acid diethylamide.
~~(xi)~~ (xiv) Mescaline.
(xv) 4-METHOXYAMPHETAMINE.
~~(xii)~~ (xvi) Methoxymethylenedioxyamphetamine (MMDA).
~~(xiii)~~ (xvii) Methylenedioxyamphetamine (MDA).
~~(xiv)~~ (xviii) 3, 4-methylenedioxymethamphetamine.
~~(xv)~~ (xix) 3, 4-methylenedioxy-n-ethylamphetamine.
~~(xvi)~~ (xx) N-ethyl-3-piperidyl benzilate (JB-318).
~~(xvii)~~ (xxi) N-hydroxy-3, 4-methylenedioxyamphetamine.
~~(xviii)~~ (xxii) N-methyl-3-piperidyl benzilate (JB-336).
~~(xix)~~ (xxiii) N-(1-phenylcyclohexyl) ethylamine (PCE).
~~(xx)~~ (xxiv) Nabilone.
~~(xxi)~~ (xxv) 1-(1-phenylcyclohexyl) pyrrolidine (PHP).
~~(xxii)~~ (xxvi) 1-(1-(2-thienyl)-cyclohexyl) piperidine (TCP).
~~(xxiii)~~ (xxvii) 1-(1-(2-thienyl)-cyclohexyl) pyrrolidine.
~~(xxiv)~~ (xxviii) Para-methoxyamphetamine (PMA).
~~(xxv)~~ (xxix) Psilocybin.
~~(xxvi)~~ (xxx) Psilocyn.
~~(xxvii)~~ (xxxi) Synhexyl.
~~(xxviii)~~ (xxxii) Trimethoxyamphetamine (TMA).

(b) Any material, compound, mixture or preparation which contains any quantity of the following substances and their salts, optical isomers, and salts of optical isomers having a potential for abuse associated with a stimulant effect on the central nervous system:

(i) Amphetamine.
(ii) Benzphetamine.
(iii) BUTORPHANOL.
~~(iii)~~ (iv) Cathine ((+)-norpseudoephedrine).
~~(iv)~~ (v) Chlorphentermine.
~~(v)~~ (vi) Clortermine.
~~(vi)~~ (vii) Diethylpropion.
~~(vii)~~ (viii) Fencamfamin.
~~(viii)~~ (ix) Fenethylline.
~~(ix)~~ (x) Fenproporex.
~~(x)~~ (xi) Mazindol.
~~(xi)~~ (xii) Mefenorex.
~~(xii)~~ (xiii) Methamphetamine.
(xiv) METHCATHINONE.
~~(xiii)~~ (xv) 4-methylaminorex.
~~(xiv)~~ (xvi) Methylphenidate.
(xvii) MODAFINIL.
~~(xv)~~ (xviii) N-ethylamphetamine.
~~(xvi)~~ (xix) N, N-dimethylamphetamine.
~~(xvii)~~ (xx) Pemoline.
~~(xviii)~~ (xxi) Phendimetrazine.

~~(xix)~~ (xxii) Phenmetrazine.
~~(xx)~~ (xxiii) Phentermine.
~~(xxi)~~ (xxiv) Pipradol.
~~(xxii)~~ (xxv) Propylhexedrine.
~~(xxiii)~~ (xxvi) Pyrovalerone.
(xxvii) SIBUTRAMINE.
~~(xxiv)~~ (xxviii) Spa ((-)-1-dimethylamino-1,2-diphenylethane).

(c) Any material, compound, mixture or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

(i) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, unless specifically excepted.

(ii) Alprazolam.
(iii) Bromazepam.
(iv) Camazepam.
(v) CARISOPRODOL.
~~(v)~~ (vi) Chloral betaine.
~~(vi)~~ (vii) Chloral hydrate.
~~(vii)~~ (viii) Chlordiazepoxide.
~~(viii)~~ (ix) Chlorhexadol.
~~(ix)~~ (x) Clobazam.
~~(x)~~ (xi) Clonazepam.
~~(xi)~~ (xii) Clorazepate.
~~(xii)~~ (xiii) Clotiazepam.
~~(xiii)~~ (xiv) Cloxazolam.
~~(xiv)~~ (xv) Delorazepam.
~~(xv)~~ (xvi) Diazepam.
(xvii) DICHLORALPHENAZONE.
~~(xvi)~~ (xviii) Estazolam.
~~(xvii)~~ (xix) Ethchlorvynol.
~~(xviii)~~ (xx) Ethinamate.
~~(xix)~~ (xxi) Ethyl loflazepate.
~~(xx)~~ (xxii) Fenfluramine.
~~(xxi)~~ (xxiii) Fludiazepam.
~~(xxii)~~ (xxiv) Flunitrazepam.
~~(xxiii)~~ (xxv) Flurazepam.
~~(xxiv)~~ (xxvi) Gamma hydroxy butyrate.
~~(xxv)~~ (xxvii) Glutethimide.
~~(xxvi)~~ (xxviii) Halazepam.
~~(xxvii)~~ (xxix) Haloxazolam.
~~(xxviii)~~ (xxx) Ketamine.
~~(xxix)~~ (xxxi) Ketazolam.
~~(xxx)~~ (xxxii) Loprazolam.
~~(xxxi)~~ (xxxiii) Lorazepam.

~~(xxxii)~~ (xxxiv) Lormetazepam.
~~(xxxiii)~~ (xxxv) Lysergic acid.
~~(xxxiv)~~ (xxxvi) Mebutamate.
~~(xxxv)~~ (xxxvii) Mecloqualone.
~~(xxxvi)~~ (xxxviii) Medazepam.
~~(xxxvii)~~ (xxxix) Meprobamate.
~~(xxxviii)~~ (xl) Methaqualone.
(xli) METHOHEXITAL.
~~(xxxix)~~ (xlii) Methyprylon.
~~(xl)~~ (xliii) Midazolam.
~~(xli)~~ (xliv) Nimetazepam.
~~(xlii)~~ (xlv) Nitrazepam.
~~(xliii)~~ (xlvi) Nordiazepam.
~~(xliv)~~ (xlvii) Oxazepam.
~~(xlv)~~ (xlviii) Oxazolam.
~~(xlvi)~~ (xlix) Paraldehyde.
~~(xlvii)~~ (l) Petrichloral.
~~(xlviii)~~ (li) Phencyclidine.
~~(xlix)~~ (lii) Pinazepam.
~~(l)~~ (liii) Prazepam.
~~(li)~~ (liv) Scopolamine.
~~(lii)~~ (lv) Sulfondiethylmethane.
~~(liii)~~ (lvi) Sulfonethylmethane.
~~(liv)~~ (lvii) Sulfonmethane.
~~(lv)~~ (lviii) Quazepam.
~~(lvi)~~ (lix) Temazepam.
~~(lvii)~~ (lx) Tetrazepam.
~~(lviii)~~ (lxi) Tiletamine.
~~(lix)~~ (lxii) Triazolam.
(lxiii) ZALEPLON.
~~(lx)~~ (lxiv) Zolazepam.
(lxv) ZOLPIDEM.

(d) Any material, compound, mixture or preparation which contains any quantity of the following anabolic steroids and their salts, isomers or esters:

(i) Boldenone.
(ii) Clostebol (4-chlorotestosterone).
(iii) Dehydrochloromethyltestosterone.
(iv) Drostanolone.
(v) Ethylestrenol.
(vi) Fluoxymesterone.
(vii) Formebulone (formebolone).
(viii) Mesterolone.
(ix) Methandriol.
(x) Methandrostenolone (methandienone).

(xi) Methenolone.
(xii) Methyltestosterone.
(xiii) Mibolerone.
(xiv) Nandrolone.
(xv) Norethandrolon.
(xvi) Oxandrolone.
(xvii) Oxymesterone.
(xviii) Oxymetholone.
(xix) Stanolone (4-dihydrotestosterone).
(xx) Stanozolol.
(xxi) Testolactone.
(xxii) Testosterone.
(xxiii) Trenbolone.

7. "Deliver" means the actual, constructive or attempted exchange from one person to another, whether or not there is an agency relationship.

8. "Director" means the director of the department of health services.

9. "Dispense" means distribute, leave with, give away, dispose of or deliver.

10. "Drug court program" means a program that is established pursuant to section 13-3422 by the presiding judge of the superior court in cooperation with the county attorney in a county for the purpose of prosecuting, adjudicating and treating drug dependent persons who meet the criteria and guidelines for entry into the program that are developed and agreed on by the presiding judge and the prosecutor.

11. "Drug dependent person" means a person who is using a substance that is listed in paragraph 6, 19, 20, 21 or 28 of this section and who is in a state of psychological or physical dependence, or both, arising from the use of that substance.

12. "Federal act" has the same meaning prescribed in section 32-1901.

13. "Isoamidone" means any substance identified chemically as (4-4-diphenyl-5-methyl-6-dimethylaminohexanone-3), or any salt of such substance, by whatever trade name designated.

14. "Isonipecaine" means any substance identified chemically as (1-methyl-4-phenyl-piperidine-4-carboxylic acid ethyl ester), or any salt of such substance, by whatever trade name designated.

15. "Ketobemidone" means any substance identified chemically as (4-(3-hydroxyphenyl)-1-methyl-4-piperidylethyl ketone hydrochloride), or any salt of such substance, by whatever trade name designated.

16. "Licensed" or "permitted" means authorized by the laws of this state to do certain things.

17. "Manufacture" means produce, prepare, propagate, compound, mix or process, directly or indirectly, by extraction from substances of natural origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis. Manufacture includes any packaging or repackaging or labeling or relabeling of containers. Manufacture does not

include any producing, preparing, propagating, compounding, mixing, processing, packaging or labeling done in conformity with applicable state and local laws and rules by a licensed practitioner incident to and in the course of his licensed practice.

18. "Manufacturer" means a person who manufactures a narcotic or dangerous drug or other substance controlled by this chapter.

19. "Marijuana" means all parts of any plant of the genus cannabis, from which the resin has not been extracted, whether growing or not, and the seeds of such plant. Marijuana does not include the mature stalks of such plant or the sterilized seed of such plant which is incapable of germination.

20. "Narcotic drugs" means the following, whether of natural or synthetic origin and any substance neither chemically nor physically distinguishable from them:

(a) Acetyl-alpha-methylfentanyl.
(b) Acetylmethadol.
(c) Alfentanil.
(d) Allylprodine.
(e) Alphacetylmethadol.
(f) Alphameprodine.
(g) Alphamethadol.
(h) Alpha-methylfentanyl.
(i) Alpha-methylthiofentanyl.
(j) Alphaprodine.
(k) Amidone (methadone).
(l) Anileridine.
(m) Benzethidine.
(n) Benzylfentanyl.
(o) Betacetylmethadol.
(p) Beta-hydroxyfentanyl.
(q) Beta-hydroxy-3-methylfentanyl.
(r) Betameprodine.
(s) Betamethadol.
(t) Betaprodine.
(u) Bezitramide.
(v) Buprenorphine and its salts.
(w) Cannabis.
(x) Carfentanil.
(y) Clonitazene.
(z) Coca leaves.
(aa) Dextromoramide.
(bb) Dextropropoxyphene.
(cc) Diampromide.
(dd) Diethylthiambutene.
(ee) Difenoxin.
(ff) Dihydrocodeine.

(gg) Dimenoxadol.
(hh) Dimepheptanol.
(ii) Dimethylthiambutene.
(jj) Dioxaphetyl butyrate.
(kk) Diphenoxylate.
(ll) Dipipanone.
(mm) Ethylmethylthiambutene.
(nn) Etonitazene.
(oo) Etoxeridine.
(pp) Fentanyl.
(qq) Furethidine.
(rr) Hydroxypethidine.
(ss) Isoamidone (isomethadone).
(tt) ~~Isonipecaine~~ PETHIDINE (meperidine).
(uu) Ketobemidone.
(vv) Levomethorphan.
(ww) Levomoramide.
(xx) Levophenacylmorphan.
(yy) Levorphanol.
(zz) Metazocine.
(aaa) 3-methylfentanyl.
(bbb) 1-methyl-4-phenyl-4-propionoxypiperidine (MPPP).
(ccc) 3-methylthiofentanyl.
(ddd) Morpheridine.
(eee) Noracymethadol.
(fff) Norlevorphanol.
(ggg) Normethadone.
(hhh) Norpipanone.
(iii) Opium.
(jjj) Para-fluorofentanyl.
(kkk) Pentazocine.
(lll) Phenadoxone.
(mmm) Phenampromide.
(nnn) Phenazocine.
(ooo) 1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine (PEPAP).
(ppp) Phenomorphan.
(qqq) Phenoperidine.
(rrr) Piminodine.
(sss) Piritramide.
(ttt) Proheptazine.
(uuu) Properidine.
(vvv) Propiram.
(www) Racemethorphan.
(xxx) Racemoramide.
(yyy) Racemorphan.

(zzz) REMIFENTANIL.
~~(zzz)~~ (aaaa) Sufentanil.
~~(aaaa)~~ (bbbb) Thenylfentanyl.
~~(bbbb)~~ (cccc) Thiofentanyl.
~~(cccc)~~ (dddd) Tilidine.
~~(dddd)~~ (eeee) Trimeperidine.

21. "Opium" means any compound, manufacture, salt, isomer, salt of isomer, derivative, mixture or preparation of the following, but does not include apomorphine or any of its salts:

(a) Acetorphine.
(b) Acetyldihydrocodeine.
(c) Benzylmorphine.
(d) Codeine.
(e) Codeine methylbromide.
(f) Codeine-n-oxide.
(g) Cyprenorphine.
(h) Desomorphine.
(i) Dihydromorphine.
(j) Drotebanol.
(k) Ethylmorphine.
(l) Etorphine.
(m) Heroin.
(n) Hydrocodone.
(o) Hydromorphinol.
(p) Hydromorphone.
(q) LEVO-ALPHACETYLMETHADOL.
~~(q)~~ (r) Methyldesorphine.
~~(r)~~ (s) Methyldihydromorphine.
~~(s)~~ (t) Metopon.
~~(t)~~ (u) Morphine.
~~(u)~~ (v) Morphine methylbromide.
~~(v)~~ (w) Morphine methylsulfonate.
~~(w)~~ (x) Morphine-n-oxide.
~~(x)~~ (y) Myrophine.
~~(y)~~ (z) Nalorphine.
~~(z)~~ (aa) Nicocodeine.
~~(aa)~~ (bb) Nicomorphine.
~~(bb)~~ (cc) Normorphine.
~~(cc)~~ (dd) Oxycodone.
~~(dd)~~ (ee) Oxymorphone.
~~(ee)~~ (ff) Pholcodine.
~~(ff)~~ (gg) Thebacon.
~~(gg)~~ (hh) Thebaine.

22. "Ordinary ephedrine, pseudoephedrine, (-)-norpseudoephedrine or phenylpropanolamine product" means a product that contains ephedrine, pseudoephedrine, (-)-norpseudoephedrine or phenylpropanolamine and that is all of the following:

(a) Approved for sale under the federal act.

(b) Labeled, advertised and marketed only for an indication that is approved by the federal food and drug administration.

(c) Either:

(i) A nonliquid that is sold in package sizes of not more than three grams of ephedrine, pseudoephedrine, (-)-norpseudoephedrine or phenlypropanolamine and that is packaged in blister packs containing not more than two dosage units or, if the use of blister packs is technically infeasible, that is packaged in unit dose packets or pouches.

(ii) A liquid that is sold in package sizes of not more than three grams of ephedrine, pseudoephedrine, (-)-norpseudoephedrine or phenylpropanolamine.

23. "Peyote" means any part of a plant of the genus lophophora, known as the mescal button.

24. "Pharmacy" means a licensed business where drugs are compounded or dispensed by a licensed pharmacist.

25. "Practitioner" means a person licensed to prescribe and administer drugs.

26. "Precursor chemical I" means any material, compound, mixture or preparation which contains any quantity of the following substances and their salts, optical isomers or salts of optical isomers:

(a) N-acetylanthranilic acid.
(b) Anthranilic acid.
(c) Ephedrine.
(d) Ergotamine.
(e) Isosafrole.
(f) Lysergic acid.
(g) Methylamine.
(h) N-ethylephedrine.
(i) N-ethylpseudoephedrine.
(j) N-methylephedrine.
(k) N-methylpseudoephedrine.
(l) Norephedrine.
(m) (-)-Norpseudoephedrine.
(n) Phenylacetic acid.
(o) Phenylpropanolamine.
(p) Piperidine.
(q) Pseudoephedrine.

27. "Precursor chemical II" means any material, compound, mixture or preparation which contains any quantity of the following substances and their salts, optical isomers or salts of optical isomers:

(a) 4-cyano-2-dimethylamino-4, 4-diphenyl butane.
(b) 4-cyano-1-methyl-4-phenylpiperidine.
(c) Chlorephedrine.
(d) Chlorpseudoephedrine.
(e) Ethyl-4-phenylpiperidine-4-carboxylate.
(f) 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid.
(g) 1-methyl-4-phenylpiperidine-4-carboxylic acid.
(h) N-formyl amphetamine.
(i) N-formyl methamphetamine.
(j) Phenyl-2-propanone.
(k) 1-piperidinocyclohexane carbonitrile.
(l) 1-pyrrolidinocyclohexane carbonitrile.

28. "Prescription-only drug" does not include a dangerous drug or narcotic drug but means:

(a) Any drug which because of its toxicity or other potentiality for harmful effect, or the method of its use, or the collateral measures necessary to its use, is not generally recognized among experts, qualified by scientific training and experience to evaluate its safety and efficacy, as safe for use except by or under the supervision of a medical practitioner.

(b) Any drug that is limited by an approved new drug application under the federal act or section 32-1962 to use under the supervision of a medical practitioner.

(c) Every potentially harmful drug, the labeling of which does not bear or contain full and adequate directions for use by the consumer.

(d) Any drug required by the federal act to bear on its label the legend "Caution: Federal law prohibits dispensing without prescription" or "RX only".

29. "Produce" means grow, plant, cultivate, harvest, dry, process or prepare for sale.

30. "Regulated chemical" means the following substances in bulk form that are not a useful part of an otherwise lawful product:

(a) Acetic anhydride.
(b) Hypophosphorous acid.
(c) Iodine.
(d) Sodium acetate.
(e) Red phosphorus.
(f) Gamma butyrolactone (GBL).
(g) 1, 4-butanediol.
(h) Butyrolactone.
(i) 1, 2 butanolide.
(j) 2-oxanalone.
(k) Tetrahydro-2-furanone.
(l) Dihydro-2(3H)-furanone.
(m) Tetramethylene glycol.

31. "Retailer" means either:

(a) A person other than a practitioner who sells any precursor chemical or regulated chemical to another person for purposes of consumption and not resale, whether or not the person possesses a permit issued pursuant to title 32, chapter 18.

(b) A person other than a manufacturer or wholesaler who purchases, receives or acquires more than twenty-four grams of a precursor chemical.

32. "Sale" or "sell" means an exchange for anything of value o. advantage, present or prospective.

33. "Sale for personal use" means the retail sale for a legitimate medical use in a single transaction to an individual customer, to an employer for dispensing to employees from first aid kits or medicine chests or to a school for administration pursuant to section 15-344.

34. "Scientific purpose" means research, teaching or chemical analysis.

35. "Suspicious transaction" means a transaction to which any of the following applies:

(a) A report is required under the federal act.

(b) The circumstances would lead a reasonable person to believe that any person is attempting to possess a precursor chemical or regulated chemical for the purpose of unlawful manufacture of a dangerous drug or narcotic drug, based on such factors as the amount involved, the method of payment, the method of delivery and any past dealings with any participant.

(c) The transaction involves payment for precursor or regulated chemicals in cash or money orders in a total amount of more than two hundred dollars.

(d) The transaction involves a sale, a transfer or furnishing to a retailer for resale without a prescription of ephedrine, pseudoephedrine, (-)-norpseudoephedrine or phenylpropanolamine that is not an ordinary ephedrine, pseudoephedrine, (-)-norpseudoephedrine or phenylpropanolamine product.

36. "Threshold amount" means a weight, market value or other form of measurement of an unlawful substance as follows:

(a) One gram of heroin.

(b) Nine grams of cocaine.

(c) Seven hundred fifty milligrams of cocaine base or hydrolyzed cocaine.

(d) Four grams or 50 milliliters of PCP.

(e) Nine grams of methamphetamine, including methamphetamine in liquid suspension.

(f) Nine grams of amphetamine, including amphetamine in liquid suspension.

(g) One-half milliliter of lysergic acid diethylamide, or in the case of blotter dosage units fifty dosage units.

(h) Two pounds of marijuana.

(i) For any combination consisting solely of those unlawful substances listed in subdivisions (a) through (h) of this paragraph, an amount equal to

or in excess of the threshold amount, as determined by the application of section 13-3420.

(j) For any unlawful substance not listed in subdivisions (a) through (h) of this paragraph or any combination involving any unlawful substance not listed in subdivisions (a) through (h) of this paragraph, a value of at least one thousand dollars.

37. "Transfer" means furnish, deliver or give away.

38. "Vapor-releasing substance containing a toxic substance" means paint or varnish dispensed by the use of aerosol spray, or any glue, which releases vapors or fumes containing acetone, volatile acetates, benzene, butyl alcohol, ethyl alcohol, ethylene dichloride, isopropyl alcohol, methyl alcohol, methyl ethyl ketone, pentachlorophenol, petroleum ether, toluene, volatile ketones, isophorone, chloroform, methylene chloride, mesityl oxide, xylene, cumene, ethylbenzene, trichloroethylene, mibk, miak, mek or diacetone alcohol or isobutyl nitrite.

39. "Weight" unless otherwise specified includes the entire weight of any mixture or substance that contains a detectable amount of an unlawful substance. If a mixture or substance contains more than one unlawful substance, the weight of the entire mixture or substance is assigned to the unlawful substance that results in the greater offense. If a mixture or substance contains lysergic acid diethylamide, the offense that results from the unlawful substance shall be based on the greater offense as determined by the entire weight of the mixture or substance or the number of blotter dosage units. For the purposes of this paragraph, "mixture" means any combination of substances from which the unlawful substance cannot be removed without a chemical process.

40. "Wholesaler" means a person who in the usual course of business lawfully supplies narcotic drugs, dangerous drugs, precursor chemicals or regulated chemicals that he himself has not produced or prepared, but not to a person for the purpose of consumption by the person, whether or not the wholesaler has a permit that is issued pursuant to title 32, chapter 18. Wholesaler includes a person who sells, delivers or dispenses a precursor chemical in an amount or under circumstances that would require registration as a distributor of precursor chemicals under the federal act.

Sec. 2. Section 32-1901, Arizona Revised Statutes, is amended to read:

32-1901. Definitions

In this chapter, unless the context otherwise requires:

1. "Administer" means the direct application of a controlled substance, prescription-only drug, dangerous drug or narcotic drug, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject by a practitioner or by the practitioner's authorized agent or the patient or research subject at the direction of the practitioner.

2. "Advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing,

or that are likely to induce, directly or indirectly, the purchase of drugs, devices, poisons or hazardous substances.

3. "ADVISORY LETTER" MEANS A NONDISCIPLINARY LETTER TO NOTIFY A LICENSEE OR PERMITTEE THAT EITHER:

(a) WHILE THERE IS INSUFFICIENT EVIDENCE TO SUPPORT DISCIPLINARY ACTION, THE BOARD BELIEVES THAT CONTINUATION OF THE ACTIVITIES THAT LED TO THE INVESTIGATION MAY RESULT IN FURTHER BOARD ACTION AGAINST THE LICENSEE OR PERMITTEE.

(b) THE VIOLATION IS A MINOR OR TECHNICAL VIOLATION THAT IS NOT OF SUFFICIENT MERIT TO WARRANT DISCIPLINARY ACTION.

(c) WHILE THE LICENSEE OR PERMITTEE HAS DEMONSTRATED SUBSTANTIAL COMPLIANCE THROUGH REHABILITATION, REMEDIATION OR REEDUCATION THAT HAS MITIGATED THE NEED FOR DISCIPLINARY ACTION, THE BOARD BELIEVES THAT REPETITION OF THE ACTIVITIES THAT LED TO THE INVESTIGATION MAY RESULT IN FURTHER BOARD ACTION AGAINST THE LICENSEE OR PERMITTEE.

~~3.~~ 4. "Antiseptic", if a drug is represented as such on its label, means a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment or dusting powder or other use that involves prolonged contact with the body.

~~4.~~ 5. "Authorized officers of the law" means legally empowered peace officers, compliance officers of the state board of pharmacy and agents of the division of narcotics enforcement and criminal intelligence of the department of public safety.

~~5.~~ 6. "Board" or "board of pharmacy" means the Arizona state board of pharmacy.

~~6.~~ 7. "Color additive" means a material that either:

(a) Is any dye, pigment or other substance made by a process of synthesis or similar artifice, or extracted, isolated or otherwise derived, with or without intermediate or final change of identity, from any vegetable, animal, mineral or other source.

(b) If added or applied to a drug, or to the human body or any part of the human body, is capable of imparting color, except that color additive does not include any material that has been or may be exempted under the federal act. Color includes black, white and intermediate grays.

~~7.~~ 8. "Compounding" means the preparation, mixing, assembling, packaging or labeling of a drug by a pharmacist or an intern or pharmacy technician under the pharmacist's supervision, for the purpose of dispensing to a patient based on a valid prescription order. Compounding includes the preparation of drugs in anticipation of prescription orders prepared on routine, regularly observed prescribing patterns and the preparation of drugs as an incident to research, teaching or chemical analysis or for administration by a medical practitioner to the medical practitioner's patient and not for sale or dispensing. Compounding does not include the preparation of commercially available products from bulk compounds or the

preparation of drugs for sale to pharmacies, practitioners or entities for the purpose of dispensing or distribution.

~~8.~~ 9. "Compressed medical gas distributor" means a person who holds a current permit issued by the board to distribute compressed medical gases pursuant to a compressed medical gas order to compressed medical gas suppliers and other entities that are registered, licensed or permitted to use, administer or distribute compressed medical gases.

~~9.~~ 10. "Compressed medical gas order" means an order for compressed medical gases that is issued by a medical practitioner.

~~10.~~ 11. "Compressed medical gas supplier" means a person who holds a current permit issued by the board to supply compressed medical gases pursuant to a compressed medical gas order and only to the consumer or the patient.

~~11.~~ 12. "Compressed medical gases" means gases and liquid oxygen that a compressed medical gas distributor or manufacturer has labeled in compliance with federal law.

~~12.~~ 13. "Controlled substance" means a drug, substance or immediate precursor identified, defined or listed in title 36, chapter 27, article 2.

~~13.~~ 14. "Corrosive" means any substance that when it comes in contact with living tissue will cause destruction of tissue by chemical action.

~~14.~~ 15. "Counterfeit drug" means a drug that, or the container or labeling of which, without authorization, bears the trademark, trade name or other identifying mark, imprint, number or device, or any likeness of these, of a manufacturer, distributor or dispenser other than the person who in fact manufactured, distributed or dispensed that drug.

~~15.~~ 16. "Dangerous drug" has the same meaning prescribed in section 13-3401.

17. "DECREE OF CENSURE" MEANS AN OFFICIAL ACTION THAT IS TAKEN BY THE BOARD AND THAT MAY INCLUDE A REQUIREMENT FOR RESTITUTION OF FEES TO A PATIENT OR CONSUMER.

~~16.~~ 18. "Deliver" or "delivery" means the actual, constructive or attempted transfer from one person to another whether or not there is an agency relationship.

~~17.~~ 19. "Deputy director" means a pharmacist employed by the board and selected by the executive director to perform duties as prescribed by the executive director.

~~18.~~ 20. "Device", except as used in paragraph ~~14~~ 15 of this section, section 32-1965, paragraph 4 and section 32-1967, subsection A, paragraph 15 and subsection C, means instruments, apparatus and contrivances, including their components, parts and accessories, including all such items under the federal act, intended either:

(a) For use in the diagnosis, cure, mitigation, treatment or prevention of disease in the human body or other animals.

(b) To affect the structure or any function of the human body or other animals.

~~19.~~ 21. "Direct supervision of a pharmacist" means the pharmacist is present. If relating to the sale of certain items, direct supervision of a pharmacist means that a pharmacist determines the legitimacy or advisability of a proposed purchase of those items.

~~20.~~ 22. "Director" means the director of the division of narcotics enforcement and criminal investigation of the department of public safety.

~~21.~~ 23. "Dispense" means to deliver to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling or compounding necessary to prepare for that delivery.

~~22.~~ 24. "Dispenser" means a practitioner who dispenses.

~~23.~~ 25. "Distribute" means to deliver, other than by administering or dispensing.

~~24.~~ 26. "Distributor" means a person who distributes.

~~25.~~ 27. "Drug" means:

(a) Articles recognized, or for which standards or specifications are prescribed, in the official compendium.

(b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in the human body or other animals.

(c) Articles other than food intended to affect the structure or any function of the human body or other animals.

(d) Articles intended for use as a component of any articles specified in subdivision (a), (b) or (c) of this paragraph but does not include devices or their components, parts or accessories.

~~26.~~ 28. "Drug enforcement administration" means the drug enforcement administration of the United States department of justice or its successor agency.

~~27.~~ 29. "Drug or device manufacturing" means the production, preparation, propagation or processing of a drug or device, either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical synthesis and includes any packaging or repackaging of substances or labeling or relabeling of its container and the promotion and marketing of the same. Drug or device manufacturing does not include compounding.

~~28.~~ 30. "Economic poison" means any substance that alone, in chemical combination or in formulation with one or more other substances is a pesticide within the meaning of the laws of this state or the federal insecticide, fungicide and rodenticide act and that is used in the production, storage or transportation of raw agricultural commodities.

~~29.~~ 31. "Established name", with respect to a drug or ingredient of a drug, means any of the following:

(a) The applicable official name.

(b) If there is no such name and the drug or ingredient is an article recognized in an official compendium, then the official title in an official compendium.

(c) If neither subdivision (a) nor (b) of this paragraph applies, then the common or usual name of such drug.

~~30.~~ 32. "Executive director" means the executive director of the board of pharmacy.

~~31.~~ 33. "Federal act" means the federal laws and regulations that pertain to drugs, devices, poisons and hazardous substances and that are official at the time any drug, device, poison or hazardous substance is affected by this chapter.

~~32.~~ 34. "Full service wholesale permittee" means a permittee who may distribute prescription-only drugs and devices, controlled substances and over-the-counter drugs and devices to pharmacies or other legal outlets from a place devoted in whole or in part to wholesaling these items.

~~33.~~ 35. "Graduate intern" means a person who has graduated from a college, school or program of pharmacy approved by the board and who meets the qualifications and experience for a pharmacy intern as provided in section 32-1923.

~~34.~~ 36. "Highly toxic" means any substance that falls within any of the following categories:

(a) Produces death within fourteen days in half or more than half of a group of ten or more laboratory white rats each weighing between two hundred and three hundred grams, at a single dose of fifty milligrams or less per kilogram of body weight, when orally administered.

(b) Produces death within fourteen days in half or more than half of a group of ten or more laboratory white rats each weighing between two hundred and three hundred grams, if inhaled continuously for a period of one hour or less at an atmospheric concentration of two hundred parts per million by volume or less of gas or vapor or two milligrams per liter by volume or less of mist or dust, provided the concentration is likely to be encountered by humans if the substance is used in any reasonably foreseeable manner.

(c) Produces death within fourteen days in half or more than half of a group of ten or more rabbits tested in a dosage of two hundred milligrams or less per kilogram of body weight, if administered by continuous contact with the bare skin for twenty-four hours or less.

If the board finds that available data on human experience with any substance indicate results different from those obtained on animals in the dosages or concentrations prescribed in this paragraph, the human data shall take precedence.

~~35.~~ 37. "Hospital" means any institution for the care and treatment of the sick and injured that is approved and licensed as a hospital by the department of health services.

~~36.~~ 38. "Intern" means a pharmacy intern and a graduate intern.

~~37.~~ 39. "Internship" means the practical, experiential, hands-on training of a pharmacy intern under the supervision of a preceptor.

~~38.~~ 40. "Irritant" means any substance, other than a corrosive, that on immediate, prolonged or repeated contact with normal living tissue will induce a local inflammatory reaction.

~~39.~~ 41. "Jurisprudence examination" means a board approved pharmacy law examination that is written and administered in cooperation with the national association of boards of pharmacy or another board approved pharmacy law examination.

~~40.~~ 42. "Label" means a display of written, printed or graphic matter on the immediate container of any article that, unless easily legible through the outside wrapper or container, also appears on the outside wrapper or container of the article's retail package. For the purposes of this paragraph, the immediate container does not include package liners.

~~41.~~ 43. "Labeling" means all labels and other written, printed or graphic matter either:

(a) On any article or any of its containers or wrappers.

(b) Accompanying that article.

44. "LETTER OF REPRIMAND" MEANS A DISCIPLINARY LETTER THAT IS A PUBLIC DOCUMENT ISSUED BY THE BOARD AND THAT INFORMS A LICENSEE OR PERMITTEE THAT THE LICENSEE'S OR PERMITTEE'S CONDUCT VIOLATES STATE OR FEDERAL LAW AND MAY REQUIRE THE BOARD TO MONITOR THE LICENSEE OR PERMITTEE.

~~42.~~ 45. "Limited service pharmacy" means a pharmacy approved by the board to practice a limited segment of pharmacy as indicated by the permit issued by the board.

~~43.~~ 46. "Manufacture" or "manufacturer" means every person who prepares, derives, produces, compounds, processes, packages or repackages or labels any drug in a place, other than a pharmacy, devoted to manufacturing the drug.

~~44.~~ 47. "Marijuana" has the same meaning prescribed in section 13-3401.

~~45.~~ 48. "Medical practitioner" means any medical doctor, doctor of osteopathy, dentist, podiatrist, veterinarian or other person licensed and authorized by law to use and prescribe drugs and devices for the treatment of sick and injured human beings or animals or for the diagnosis or prevention of sickness in human beings or animals in this state or any state, territory or district of the United States.

~~46.~~ 49. "Medication order" means a written or verbal order from a medical practitioner or that person's authorized agent to administer a drug or device.

~~47.~~ 50. "Narcotic drug" has the same meaning prescribed in section 13-3401.

~~48.~~ 51. "New drug" means either:

(a) Any drug the composition of which is such that the drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs as safe and

effective for use under the conditions prescribed, recommended or suggested in the labeling.

(b) Any drug the composition of which is such that the drug, as a result of investigations to determine its safety and effectiveness for use under such conditions, has become so recognized, but that has not, other than in the investigations, been used to a material extent or for a material time under those conditions.

~~49.~~ 52. "Nonprescription drug" or "over-the-counter drug" means any nonnarcotic medicine or drug that may be sold without a prescription and is prepackaged and labeled for use by the consumer in accordance with the requirements of the laws of this state and federal law. Nonprescription drug does not include:

(a) A drug that is primarily advertised and promoted professionally to medical practitioners and pharmacists by manufacturers or primary distributors.

(b) A controlled substance.

(c) A drug that is required to bear a label that states "Rx only."

(d) A drug intended for human use by hypodermic injection.

~~50.~~ 53. "Nonprescription drug wholesale permittee" means a permittee who may distribute only over-the-counter drugs and devices to pharmacies or other lawful outlets from a place devoted in whole or in part to wholesaling these items.

~~51.~~ 54. "Notice" means personal service or the mailing of a copy of the notice by certified mail addressed either to the person at the person's latest address of record in the board office or to the person's attorney.

~~52.~~ 55. "Official compendium" means the latest revision of the United States pharmacopeia and the national formulary or any current supplement.

~~53.~~ 56. "Other jurisdiction" means one of the other forty-nine states, the District of Columbia, the Commonwealth of Puerto Rico or a territory of the United States of America.

~~54.~~ 57. "Package" means a receptacle defined or described in the United States pharmacopeia and the national formulary as adopted by the board.

~~55.~~ 58. "Packaging" means the act or process of placing a drug item or device in a container for the purpose or intent of dispensing or distributing the item or device to another.

~~56.~~ 59. "Person" means an individual, partnership, corporation and association, and their duly authorized agents.

~~57.~~ 60. "Pharmaceutical care" means the provision of drug therapy and other pharmaceutical patient care services.

~~58.~~ 61. "Pharmacist" means an individual currently licensed by the board to practice the profession of pharmacy in this state.

~~59.~~ 62. "Pharmacist in charge" means the pharmacist who is responsible to the board for a licensed establishment's compliance with the laws and administrative rules of this state and of the federal government pertaining

to the practice of pharmacy, the manufacturing of drugs and the distribution of drugs and devices.

~~60.~~ 63. "Pharmacist licensure examination" means a board approved examination that is written and administered in cooperation with the national association of boards of pharmacy or any other board approved pharmacist licensure examination.

~~61.~~ 64. "Pharmacy" means any place:

(a) Where drugs, devices, poisons or related hazardous substances are offered for sale at retail.

(b) In which the profession of pharmacy is practiced or where prescription orders are compounded and dispensed.

(c) That has displayed on it or in it the words, "pharmacist," "pharmaceutical chemist," "apothecary," "druggist," "pharmacy," "drugstore," "drugs," "drug sundries" or any of these words or combinations of these words, or words of similar import either in English or any other language, or that is advertised by any sign containing any of these words.

(d) Where the characteristic symbols of pharmacy or the characteristic prescription sign "Rx" is exhibited.

(e) Or a portion of any building or structure THAT IS leased, used or controlled by the permittee to conduct the business authorized by the board at the address for which the permit was issued and that is enclosed and secured when a pharmacist is not in attendance.

~~62.~~ 65. "Pharmacy intern" means a person who has all of the qualifications and experience prescribed in section 32-1923.

~~63.~~ 66. "Pharmacy technician" means a person licensed pursuant to this chapter.

~~64.~~ 67. "Pharmacy technician trainee" means a person licensed pursuant to this chapter.

~~65.~~ 68. "Poison" or "hazardous substance" includes, but is not limited to, any of the following if intended and suitable for household use or use by children:

(a) Any substance that, according to standard works on medicine, pharmacology, pharmacognosy or toxicology, if applied to, introduced into or developed within the body in relatively small quantities by its inherent action uniformly produces serious bodily injury, disease or death.

(b) A toxic substance.

(c) A highly toxic substance.

(d) A corrosive substance.

(e) An irritant.

(f) A strong sensitizer.

(g) A mixture of any of the substances described in this paragraph, if the substance or mixture of substances may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children.

(h) A substance designated by the board to be a poison or hazardous substance. This subdivision does not apply to radioactive substances, economic poisons subject to the federal insecticide, fungicide and rodenticide act or the state pesticide act, foods, drugs and cosmetics subject to state laws or the federal act or substances intended for use as fuels when stored in containers and used in the heating, cooking or refrigeration system of a house. This subdivision applies to any substance or article that is not itself an economic poison within the meaning of the federal insecticide, fungicide and rodenticide act or the state pesticide act, but that is a poison or hazardous substance within the meaning of this paragraph by reason of bearing or containing an economic poison or hazardous substance.

~~66.~~ 69. "Practice of pharmacy" means:

(a) Interpreting, evaluating and dispensing prescription orders in the patient's best interests.

(b) Compounding drugs pursuant to or in anticipation of a prescription order.

(c) Labeling of drugs and devices in compliance with state and federal requirements.

(d) Participating in drug selection and drug utilization reviews, drug administration, drug or drug related research and drug therapy monitoring or management.

(e) Providing patient counseling necessary to provide pharmaceutical care.

(f) Properly and safely storing drugs and devices in anticipation of dispensing.

(g) Maintaining required records of drugs and devices.

(h) Offering or performing of acts, services, operations or transactions necessary in the conduct, operation, management and control of a pharmacy.

~~67.~~ 70. "Practitioner" means any physician, dentist, veterinarian, scientific investigator or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of professional practice or research in this state, or any pharmacy, hospital or other institution licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of professional practice or research in this state.

~~68.~~ 71. "Preceptor" means a pharmacist who is serving as the practical instructor of an intern and complies with section 32-1923.

72. "PRECURSOR CHEMICAL" MEANS A SUBSTANCE THAT IS:

(a) THE PRINCIPAL COMPOUND THAT IS COMMONLY USED OR THAT IS PRODUCED PRIMARILY FOR USE AND THAT IS AN IMMEDIATE CHEMICAL INTERMEDIARY USED OR LIKELY TO BE USED IN THE MANUFACTURE OF A CONTROLLED SUBSTANCE, THE CONTROL OF WHICH IS NECESSARY TO PREVENT, CURTAIL OR LIMIT MANUFACTURE.

(b) LISTED IN SECTION 13-3401, PARAGRAPH 26 OR 27.

~~69.~~ 73. "Prescription" means either a prescription order or a prescription medication.

~~70.~~ 74. "Prescription medication" means any drug, including label and container according to context, that is dispensed pursuant to a prescription order.

~~71.~~ 75. "Prescription-only device" includes:

(a) Any device that is limited by the federal act to use under the supervision of a medical practitioner.

(b) Any device required by the federal act to bear on its label essentially the legend "Rx only".

~~72.~~ 76. "Prescription-only drug" does not include a controlled substance but does include:

(a) Any drug that because of its toxicity or other potentiality for harmful effect, the method of its use, or the collateral measures necessary to its use is not generally recognized among experts, qualified by scientific training and experience to evaluate its safety and efficacy, as safe for use except by or under the supervision of a medical practitioner.

(b) Any drug that is limited by an approved new drug application under the federal act or section 32-1962 to use under the supervision of a medical practitioner.

(c) Every potentially harmful drug, the labeling of which does not bear or contain full and adequate directions for use by the consumer.

(d) Any drug, other than a controlled substance, required by the federal act to bear on its label the legend "Rx only".

~~73.~~ 77. "Prescription order" means either:

(a) An order to a pharmacist for drugs or devices issued and signed by a duly licensed medical practitioner in the authorized course of the practitioner's professional practice.

(b) An order transmitted to a pharmacist through word of mouth, telephone or other means of communication directed by that medical practitioner. Prescription orders received by word of mouth, telephone or other means of communication shall be maintained by the pharmacist pursuant to section 32-1964 and the record so made by the pharmacist constitutes the original prescription order to be dispensed by the pharmacist. This paragraph does not alter or affect laws of this state or any federal act requiring a written prescription order.

78. "PROFESSIONALLY INCOMPETENT" MEANS:

(a) INCOMPETENCE BASED ON A VARIETY OF FACTORS INCLUDING A LACK OF SUFFICIENT PHARMACEUTICAL KNOWLEDGE OR SKILLS OR EXPERIENCE TO A DEGREE LIKELY TO ENDANGER THE HEALTH OF PATIENTS.

(b) WHEN CONSIDERED WITH OTHER INDICATIONS OF PROFESSIONAL INCOMPETENCE, A PHARMACIST, PHARMACY INTERN OR GRADUATE INTERN WHO FAILS TO OBTAIN A PASSING SCORE ON A BOARD APPROVED PHARMACIST LICENSURE EXAMINATION

OR A PHARMACY TECHNICIAN OR PHARMACY TECHNICIAN TRAINEE WHO FAILS TO OBTAIN A PASSING SCORE ON A BOARD APPROVED PHARMACY TECHNICIAN LICENSURE EXAMINATION.

~~74.~~ 79. "Radioactive substance" means a substance that emits ionizing radiation.

80. "SAFELY ENGAGE IN EMPLOYMENT DUTIES" MEANS THAT A PERMITTEE OR THE PERMITTEE'S EMPLOYEE IS ABLE TO SAFELY ENGAGE IN EMPLOYMENT DUTIES RELATED TO THE MANUFACTURE, SALE, DISTRIBUTION OR DISPENSING OF DRUGS, DEVICES, POISONS, HAZARDOUS SUBSTANCES, CONTROLLED SUBSTANCES OR PRECURSOR CHEMICALS.

~~75.~~ 81. "Symbol" means the characteristic symbols that have historically identified pharmacy, including "show globes", "mortar and pestle" and the sign "Rx".

~~76.~~ 82. "Toxic substance" means a substance, other than a radioactive substance, that has the capacity to produce injury or illness in humans through ingestion, inhalation or absorption through any body surface.

~~77.~~ 83. "Ultimate user" means a person who lawfully possesses a drug or controlled substance for that person's own use, for the use of a member of that person's household or for administering to an animal owned by that person or by a member of that person's household.

~~78. "Unprofessional conduct" means that conduct of a pharmacist or intern that degrades or injures the profession of pharmacy as provided in section 32-1927, subsection B, paragraph 3.~~

Sec. 3. Title 32, chapter 18, article 1, Arizona Revised Statutes, is amended by adding section 32-1901.01, to read:

32-1901.01. Definition of unethical and unprofessional conduct; permittees; licensees

A. IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES, FOR THE PURPOSES OF DISCIPLINING A PERMITTEE, "UNETHICAL CONDUCT" MEANS THE FOLLOWING, WHETHER OCCURRING IN THIS STATE OR ELSEWHERE:

1. COMMITTING A FELONY, WHETHER OR NOT INVOLVING MORAL TURPITUDE, OR A MISDEMEANOR INVOLVING MORAL TURPITUDE OR ANY DRUG RELATED OFFENSE. IN EITHER CASE, CONVICTION BY A COURT OF COMPETENT JURISDICTION OR A PLEA OF NO CONTEST IS CONCLUSIVE EVIDENCE OF THE COMMISSION.

2. COMMITTING AN ACT THAT IS SUBSTANTIALLY RELATED TO THE QUALIFICATIONS, FUNCTIONS OR DUTIES OF A PERMITTEE AND THAT DEMONSTRATES EITHER A LACK OF GOOD MORAL CHARACTER OR AN ACTUAL OR POTENTIAL UNFITNESS TO HOLD A PERMIT IN LIGHT OF THE PUBLIC'S SAFETY.

3. WORKING UNDER THE INFLUENCE OF ALCOHOL OR OTHER DRUGS.

4. ADDICTION TO THE USE OF ALCOHOL OR OTHER DRUGS TO SUCH A DEGREE AS TO RENDER THE PERMITTEE UNFIT TO PERFORM THE PERMITTEE'S EMPLOYMENT DUTIES.

5. VIOLATING A FEDERAL OR STATE LAW OR ADMINISTRATIVE RULE RELATING TO THE MANUFACTURE, SALE OR DISTRIBUTION OF DRUGS, DEVICES, POISONS, HAZARDOUS SUBSTANCES OR PRECURSOR CHEMICALS.

6. VIOLATING A FEDERAL OR STATE LAW OR ADMINISTRATIVE RULE RELATING TO MARIJUANA, PRESCRIPTION-ONLY DRUGS, NARCOTICS, DANGEROUS DRUGS, CONTROLLED SUBSTANCES OR PRECURSOR CHEMICALS.

7. VIOLATING STATE OR FEDERAL REPORTING OR RECORD KEEPING REQUIREMENTS ON TRANSACTIONS RELATING TO PRECURSOR CHEMICALS.

8. FAILING TO REPORT IN WRITING TO THE BOARD ANY EVIDENCE THAT A PHARMACIST, PHARMACY INTERN OR GRADUATE INTERN IS OR MAY BE PROFESSIONALLY INCOMPETENT, IS OR MAY BE GUILTY OF UNPROFESSIONAL CONDUCT OR IS OR MAY BE MENTALLY OR PHYSICALLY UNABLE SAFELY TO ENGAGE IN THE PRACTICE OF PHARMACY.

9. FAILING TO REPORT IN WRITING TO THE BOARD ANY EVIDENCE THAT A PHARMACY TECHNICIAN OR PHARMACY TECHNICIAN TRAINEE IS OR MAY BE PROFESSIONALLY INCOMPETENT, IS OR MAY BE GUILTY OF UNPROFESSIONAL CONDUCT OR IS OR MAY BE MENTALLY OR PHYSICALLY UNABLE SAFELY TO ENGAGE IN THE PERMISSIBLE ACTIVITIES OF A PHARMACY TECHNICIAN OR PHARMACY TECHNICIAN TRAINEE.

10. FAILING TO REPORT IN WRITING TO THE BOARD ANY EVIDENCE THAT APPEARS TO SHOW THAT A PERMITTEE OR PERMITTEE'S EMPLOYEE IS OR MAY BE GUILTY OF UNETHICAL CONDUCT, IS OR MAY BE MENTALLY OR PHYSICALLY UNABLE SAFELY TO ENGAGE IN EMPLOYMENT DUTIES RELATED TO MANUFACTURING, SELLING, DISTRIBUTING OR DISPENSING OF DRUGS, DEVICES, POISONS, HAZARDOUS SUBSTANCES, CONTROLLED SUBSTANCES OR PRECURSOR CHEMICALS OR IS OR MAY BE IN VIOLATION OF THIS CHAPTER OR A RULE ADOPTED UNDER THIS CHAPTER.

11. INTENDING TO SELL, TRANSFER OR DISTRIBUTE, OR TO OFFER FOR SALE, TRANSFER OR DISTRIBUTION, OR SELLING, TRANSFERRING, DISTRIBUTING OR DISPENSING OR OFFERING FOR SALE, TRANSFER OR DISTRIBUTION AN IMITATION CONTROLLED SUBSTANCE, IMITATION OVER-THE-COUNTER DRUG OR IMITATION PRESCRIPTION-ONLY DRUG AS DEFINED IN SECTION 13-3451.

12. DENIAL OR DISCIPLINE OF A PERMITTEE'S PERMIT TO MANUFACTURE, SELL, DISTRIBUTE OR DISPENSE DRUGS, DEVICES, POISONS, HAZARDOUS SUBSTANCES OR PRECURSOR CHEMICALS IN ANOTHER JURISDICTION AND THE PERMIT WAS NOT REINSTATED.

13. COMMITTING AN OFFENSE IN ANOTHER JURISDICTION THAT IF COMMITTED IN THIS STATE WOULD BE GROUNDS FOR DISCIPLINE.

14. OBTAINING OR ATTEMPTING TO OBTAIN A PERMIT OR A PERMIT RENEWAL BY FRAUD, BY MISREPRESENTATION OR BY KNOWINGLY TAKING ADVANTAGE OF THE MISTAKE OF ANOTHER PERSON OR AN AGENCY.

15. WILFULLY MAKING A FALSE REPORT OR RECORD REQUIRED BY THIS CHAPTER, REQUIRED BY FEDERAL OR STATE LAWS PERTAINING TO DRUGS, DEVICES, POISONS, HAZARDOUS SUBSTANCES OR PRECURSOR CHEMICALS OR REQUIRED FOR THE PAYMENT FOR DRUGS, DEVICES, POISONS OR HAZARDOUS SUBSTANCES OR PRECURSOR CHEMICALS OR FOR SERVICES PERTAINING TO SUCH DRUGS OR SUBSTANCES.

16. KNOWINGLY FILING WITH THE BOARD ANY APPLICATION, RENEWAL OR OTHER DOCUMENT THAT CONTAINS FALSE OR MISLEADING INFORMATION.

17. PROVIDING FALSE OR MISLEADING INFORMATION OR OMITTING MATERIAL INFORMATION IN ANY COMMUNICATION TO THE BOARD OR THE BOARD'S EMPLOYEES OR AGENTS.

18. VIOLATING OR ATTEMPTING TO VIOLATE, DIRECTLY OR INDIRECTLY, OR ASSISTING IN OR ABETTING THE VIOLATION OF, OR CONSPIRING TO VIOLATE, THIS CHAPTER.

19. VIOLATING A FORMAL ORDER, TERMS OF PROBATION, A CONSENT AGREEMENT OR A STIPULATION ISSUED OR ENTERED INTO BY THE BOARD OR ITS EXECUTIVE DIRECTOR PURSUANT TO THIS CHAPTER.

20. FAILING TO COMPLY WITH A BOARD SUBPOENA OR FAILING TO COMPLY IN A TIMELY MANNER WITH A BOARD SUBPOENA WITHOUT PROVIDING ANY EXPLANATION TO THE BOARD FOR NOT COMPLYING WITH THE SUBPOENA.

21. FAILING TO PROVIDE THE BOARD, ITS EMPLOYEES OR AGENTS OR AN AUTHORIZED FEDERAL OR STATE OFFICIAL CONDUCTING A SITE INVESTIGATION, INSPECTION OR AUDIT WITH ACCESS TO ANY PLACE FOR WHICH A PERMIT HAS BEEN ISSUED OR FOR WHICH AN APPLICATION FOR A PERMIT HAS BEEN SUBMITTED.

22. FAILING TO NOTIFY THE BOARD OF A CHANGE OF OWNERSHIP, MANAGEMENT OR PHARMACIST IN CHARGE.

23. FAILING TO PROMPTLY PRODUCE ON THE REQUEST OF THE OFFICIAL CONDUCTING THE SITE INVESTIGATION, INSPECTION OR AUDIT ANY BOOK, RECORD OR DOCUMENT.

24. OVERRULING OR ATTEMPTING TO OVERRULE A PHARMACIST IN MATTERS OF PHARMACY ETHICS OR INTERPRETING LAWS PERTAINING TO THE PRACTICE OF PHARMACY OR THE DISTRIBUTION OF DRUGS OR DEVICES.

25. DISTRIBUTING PREMIUMS OR REBATES OF ANY KIND IN CONNECTION WITH THE SALE OF PRESCRIPTION MEDICATION, OTHER THAN TO THE PRESCRIPTION MEDICATION RECIPIENT.

26. FAILING TO MAINTAIN EFFECTIVE CONTROLS AGAINST THE DIVERSION OF PRECURSOR CHEMICALS TO UNAUTHORIZED PERSONS OR ENTITIES.

27. FRAUDULENTLY CLAIMING TO HAVE PERFORMED A SERVICE.

28. FRAUDULENTLY CHARGING A FEE FOR A SERVICE.

29. ADVERTISING DRUGS OR DEVICES, OR SERVICES PERTAINING TO DRUGS OR DEVICES, THAT IS UNTRUE OR MISLEADING IN ANY PARTICULAR, AND THAT IS KNOWN, OR THAT BY THE EXERCISE OF REASONABLE CARE SHOULD BE KNOWN, TO BE UNTRUE OR MISLEADING.

B. IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES, FOR THE PURPOSES OF DISCIPLINING A PHARMACIST, PHARMACY INTERN OR GRADUATE INTERN, "UNPROFESSIONAL CONDUCT" MEANS THE FOLLOWING, WHETHER OCCURRING IN THIS STATE OR ELSEWHERE:

1. ADDICTION TO THE USE OF ALCOHOL OR OTHER DRUGS TO SUCH A DEGREE AS TO RENDER THE LICENSEE UNFIT TO PRACTICE THE PROFESSION OF PHARMACY.

2. VIOLATING ANY FEDERAL OR STATE LAW, RULE OR REGULATION RELATING TO THE MANUFACTURE OR DISTRIBUTION OF DRUGS AND DEVICES OR THE PRACTICE OF PHARMACY.

3. DISPENSING A DIFFERENT DRUG OR BRAND OF DRUG IN PLACE OF THE DRUG OR BRAND OF DRUG ORDERED OR PRESCRIBED WITHOUT THE EXPRESS PERMISSION IN EACH CASE OF THE ORDERER, OR IN THE CASE OF A PRESCRIPTION ORDER, THE MEDICAL

PRACTITIONER. THE CONDUCT PROHIBITED BY THIS PARAGRAPH DOES NOT APPLY TO SUBSTITUTIONS AUTHORIZED PURSUANT TO SECTION 32-1963.01.

4. OBTAINING OR ATTEMPTING TO OBTAIN A LICENSE TO PRACTICE PHARMACY OR A LICENSE RENEWAL BY FRAUD, BY MISREPRESENTATION OR BY KNOWINGLY TAKING ADVANTAGE OF THE MISTAKE OF ANOTHER PERSON OR AN AGENCY.

5. DENIAL OR DISCIPLINE OF A LICENSEE'S LICENSE TO PRACTICE PHARMACY IN ANOTHER JURISDICTION AND THE LICENSE WAS NOT REINSTATED.

6. CLAIMING PROFESSIONAL SUPERIORITY IN COMPOUNDING OR DISPENSING PRESCRIPTION ORDERS.

7. FAILING TO COMPLY WITH THE MANDATORY CONTINUING PROFESSIONAL PHARMACY EDUCATION REQUIREMENTS OF SECTIONS 32-1936 AND 32-1937 AND RULES ADOPTED BY THE BOARD.

8. COMMITTING A FELONY, WHETHER OR NOT INVOLVING MORAL TURPITUDE, OR A MISDEMEANOR INVOLVING MORAL TURPITUDE OR ANY DRUG RELATED OFFENSE. IN EITHER CASE, CONVICTION BY A COURT OF COMPETENT JURISDICTION OR A PLEA OF NO CONTEST IS CONCLUSIVE EVIDENCE OF THE COMMISSION.

9. WORKING UNDER THE INFLUENCE OF ALCOHOL OR OTHER DRUGS.

10. VIOLATING A FEDERAL OR STATE LAW OR ADMINISTRATIVE RULE RELATING TO MARIJUANA, PRESCRIPTION-ONLY DRUGS, NARCOTICS, DANGEROUS DRUGS, CONTROLLED SUBSTANCES OR PRECURSOR CHEMICALS WHEN DETERMINED BY THE BOARD OR BY CONVICTION IN A FEDERAL OR STATE COURT.

11. KNOWINGLY DISPENSING A DRUG WITHOUT A VALID PRESCRIPTION ORDER AS REQUIRED PURSUANT TO SECTION 32-1968, SUBSECTION A.

12. KNOWINGLY DISPENSING A DRUG ON A PRESCRIPTION ORDER THAT WAS ISSUED IN THE COURSE OF THE CONDUCT OF BUSINESS OF DISPENSING DRUGS PURSUANT TO DIAGNOSIS BY MAIL OR THE INTERNET.

13. FAILING TO REPORT IN WRITING TO THE BOARD ANY EVIDENCE THAT A PHARMACIST, PHARMACY INTERN OR GRADUATE INTERN IS OR MAY BE PROFESSIONALLY INCOMPETENT, IS OR MAY BE GUILTY OF UNPROFESSIONAL CONDUCT OR IS OR MAY BE MENTALLY OR PHYSICALLY UNABLE TO SAFELY ENGAGE IN THE PRACTICE OF PHARMACY.

14. FAILING TO REPORT IN WRITING TO THE BOARD ANY EVIDENCE THAT A PHARMACY TECHNICIAN OR PHARMACY TECHNICIAN TRAINEE IS OR MAY BE PROFESSIONALLY INCOMPETENT, IS OR MAY BE GUILTY OF UNPROFESSIONAL CONDUCT OR IS OR MAY BE MENTALLY OR PHYSICALLY UNABLE TO SAFELY ENGAGE IN THE PERMISSIBLE ACTIVITIES OF A PHARMACY TECHNICIAN OR PHARMACY TECHNICIAN TRAINEE.

15. FAILING TO REPORT IN WRITING TO THE BOARD ANY EVIDENCE THAT A PERMITTEE OR A PERMITTEE'S EMPLOYEE IS OR MAY BE GUILTY OF UNETHICAL CONDUCT OR IS OR MAY BE IN VIOLATION OF THIS CHAPTER OR A RULE ADOPTED UNDER THIS CHAPTER.

16. COMMITTING AN OFFENSE IN ANOTHER JURISDICTION THAT IF COMMITTED IN THIS STATE WOULD BE GROUNDS FOR DISCIPLINE.

17. KNOWINGLY FILING WITH THE BOARD ANY APPLICATION, RENEWAL OR OTHER DOCUMENT THAT CONTAINS FALSE OR MISLEADING INFORMATION.

18. PROVIDING FALSE OR MISLEADING INFORMATION OR OMITTING MATERIAL INFORMATION IN ANY COMMUNICATION TO THE BOARD OR THE BOARD'S EMPLOYEES OR AGENTS.

19. VIOLATING OR ATTEMPTING TO VIOLATE, DIRECTLY OR INDIRECTLY, OR ASSISTING IN OR ABETTING IN THE VIOLATION OF, OR CONSPIRING TO VIOLATE, THIS CHAPTER.

20. VIOLATING A FORMAL ORDER, TERMS OF PROBATION, A CONSENT AGREEMENT OR A STIPULATION ISSUED OR ENTERED INTO BY THE BOARD OR ITS EXECUTIVE DIRECTOR PURSUANT TO THIS CHAPTER.

21. FAILING TO COMPLY WITH A BOARD SUBPOENA OR FAILING TO COMPLY IN A TIMELY MANNER WITH A BOARD SUBPOENA WITHOUT PROVIDING ANY EXPLANATION TO THE BOARD FOR NOT COMPLYING WITH THE SUBPOENA.

22. REFUSING WITHOUT JUST CAUSE TO ALLOW AUTHORIZED AGENTS OF THE BOARD TO EXAMINE DOCUMENTS THAT ARE REQUIRED TO BE KEPT PURSUANT TO THIS CHAPTER OR TITLE 36.

23. PARTICIPATING IN AN ARRANGEMENT OR AGREEMENT TO ALLOW A PRESCRIPTION ORDER OR A PRESCRIPTION MEDICATION TO BE LEFT AT, PICKED UP FROM, ACCEPTED BY OR DELIVERED TO A PLACE THAT IS NOT LICENSED AS A PHARMACY. THIS PARAGRAPH DOES NOT PROHIBIT A PHARMACIST OR A PHARMACY FROM USING AN EMPLOYEE OR A COMMON CARRIER TO PICK UP PRESCRIPTION ORDERS AT OR DELIVER PRESCRIPTION MEDICATIONS TO THE OFFICE OR HOME OF A MEDICAL PRACTITIONER, THE RESIDENCE OF A PATIENT OR A PATIENT'S HOSPITAL.

24. PAYING REBATES OR ENTERING INTO AN AGREEMENT FOR THE PAYMENT OF REBATES TO A MEDICAL PRACTITIONER OR ANY OTHER PERSON IN THE HEALTH CARE FIELD.

25. PROVIDING OR CAUSING TO BE PROVIDED TO A MEDICAL PRACTITIONER PRESCRIPTION ORDER BLANKS OR FORMS BEARING THE PHARMACIST'S OR PHARMACY'S NAME, ADDRESS OR OTHER MEANS OF IDENTIFICATION.

26. FRAUDULENTLY CLAIMING TO HAVE PERFORMED A PROFESSIONAL SERVICE.

27. FRAUDULENTLY CHARGING A FEE FOR A PROFESSIONAL SERVICE.

28. FAILING TO REPORT A CHANGE OF THE LICENSEE'S HOME ADDRESS OR EMPLOYER AS REQUIRED PURSUANT TO SECTION 32-1926.

29. FAILING TO REPORT A CHANGE IN THE LICENSEE'S RESIDENCY STATUS AS REQUIRED PURSUANT TO SECTION 32-1926.01.

C. IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES, FOR THE PURPOSES OF DISCIPLINING A PHARMACY TECHNICIAN OR PHARMACY TECHNICIAN TRAINEE, "UNPROFESSIONAL CONDUCT" MEANS THE FOLLOWING, WHETHER OCCURRING IN THIS STATE OR ELSEWHERE:

1. ADDICTION TO THE USE OF ALCOHOL OR OTHER DRUGS TO SUCH A DEGREE AS TO RENDER THE LICENSEE UNFIT TO PERFORM THE LICENSEE'S EMPLOYMENT DUTIES.

2. VIOLATING A FEDERAL OR STATE LAW OR ADMINISTRATIVE RULE RELATING TO THE MANUFACTURE OR DISTRIBUTION OF DRUGS OR DEVICES.

3. OBTAINING OR ATTEMPTING TO OBTAIN A PHARMACY TECHNICIAN OR PHARMACY TECHNICIAN TRAINEE LICENSE OR A PHARMACY TECHNICIAN LICENSE RENEWAL BY FRAUD,

BY MISREPRESENTATION OR BY KNOWINGLY TAKING ADVANTAGE OF THE MISTAKE OF ANOTHER PERSON OR AN AGENCY.

4. DENIAL OR DISCIPLINE OF A LICENSEE'S LICENSE TO PRACTICE AS A PHARMACY TECHNICIAN IN ANOTHER JURISDICTION AND THE LICENSE WAS NOT REINSTATED.

5. FAILING TO COMPLY WITH THE MANDATORY CONTINUING PROFESSIONAL EDUCATION REQUIREMENTS OF SECTION 32-1925, SUBSECTION I AND RULES ADOPTED BY THE BOARD.

6. COMMITTING A FELONY, WHETHER OR NOT INVOLVING MORAL TURPITUDE, OR A MISDEMEANOR INVOLVING MORAL TURPITUDE OR ANY DRUG RELATED OFFENSE. IN EITHER CASE, CONVICTION BY A COURT OF COMPETENT JURISDICTION OR A PLEA OF NO CONTEST IS CONCLUSIVE EVIDENCE OF THE COMMISSION.

7. WORKING UNDER THE INFLUENCE OF ALCOHOL OR OTHER DRUGS.

8. VIOLATING A FEDERAL OR STATE LAW OR ADMINISTRATIVE RULE RELATING TO MARIJUANA, PRESCRIPTION-ONLY DRUGS, NARCOTICS, DANGEROUS DRUGS, CONTROLLED SUBSTANCES OR PRECURSOR CHEMICALS WHEN DETERMINED BY THE BOARD OR BY CONVICTION IN A FEDERAL OR STATE COURT.

9. FAILING TO REPORT IN WRITING TO THE BOARD ANY EVIDENCE THAT A PHARMACIST, PHARMACY INTERN OR GRADUATE INTERN IS OR MAY BE PROFESSIONALLY INCOMPETENT, IS OR MAY BE GUILTY OF UNPROFESSIONAL CONDUCT OR IS OR MAY BE MENTALLY OR PHYSICALLY UNABLE TO SAFELY ENGAGE IN THE PRACTICE OF PHARMACY.

10. FAILING TO REPORT IN WRITING TO THE BOARD ANY EVIDENCE THAT A PHARMACY TECHNICIAN OR PHARMACY TECHNICIAN TRAINEE IS OR MAY BE PROFESSIONALLY INCOMPETENT, IS OR MAY BE GUILTY OF UNPROFESSIONAL CONDUCT OR IS OR MAY BE MENTALLY OR PHYSICALLY UNABLE TO SAFELY ENGAGE IN THE PERMISSIBLE ACTIVITIES OF A PHARMACY TECHNICIAN OR PHARMACY TECHNICIAN TRAINEE.

11. FAILING TO REPORT IN WRITING TO THE BOARD ANY EVIDENCE THAT A PERMITTEE OR A PERMITTEE'S EMPLOYEE IS OR MAY BE GUILTY OF UNETHICAL CONDUCT OR IS OR MAY BE IN VIOLATION OF THIS CHAPTER OR A RULE ADOPTED UNDER THIS CHAPTER.

12. COMMITTING AN OFFENSE IN ANOTHER JURISDICTION THAT IF COMMITTED IN THIS STATE WOULD BE GROUNDS FOR DISCIPLINE.

13. KNOWINGLY FILING WITH THE BOARD ANY APPLICATION, RENEWAL OR OTHER DOCUMENT THAT CONTAINS FALSE OR MISLEADING INFORMATION.

14. PROVIDING FALSE OR MISLEADING INFORMATION OR OMITTING MATERIAL INFORMATION IN ANY COMMUNICATION TO THE BOARD OR THE BOARD'S EMPLOYEES OR AGENTS.

15. VIOLATING OR ATTEMPTING TO VIOLATE, DIRECTLY OR INDIRECTLY, OR ASSISTING IN OR ABETTING IN THE VIOLATION OF, OR CONSPIRING TO VIOLATE, THIS CHAPTER.

16. VIOLATING A FORMAL ORDER, TERMS OF PROBATION, A CONSENT AGREEMENT OR A STIPULATION ISSUED OR ENTERED INTO BY THE BOARD OR ITS EXECUTIVE DIRECTOR PURSUANT TO THIS CHAPTER.

17. FAILING TO COMPLY WITH A BOARD SUBPOENA OR FAILING TO COMPLY IN A TIMELY MANNER WITH A BOARD SUBPOENA WITHOUT PROVIDING ANY EXPLANATION TO THE BOARD FOR NOT COMPLYING WITH THE SUBPOENA.

18. FAILING TO REPORT A CHANGE OF THE LICENSEE'S HOME ADDRESS OR EMPLOYER AS REQUIRED PURSUANT TO SECTION 32-1926.

19. FAILING TO REPORT A CHANGE IN THE LICENSEE'S RESIDENCY STATUS AS REQUIRED PURSUANT TO SECTION 32-1926.01.

Sec. 4. Section 32-1902, Arizona Revised Statutes, is amended to read:

32-1902. Arizona state board of pharmacy; immunity

A. ~~There shall be an~~ THE Arizona state board of pharmacy ~~which shall consist~~ IS ESTABLISHED CONSISTING of ~~five~~ THE FOLLOWING MEMBERS WHO ARE APPOINTED BY THE GOVERNOR:

1. SIX pharmacists at least one of whom ~~shall be~~ IS a pharmacist employed by a licensed hospital and AT LEAST ONE OF WHOM IS EMPLOYED BY A COMMUNITY PHARMACY AND ENGAGED IN THE DAY-TO-DAY PRACTICE OF PHARMACY.

2. ONE PHARMACY TECHNICIAN.

3. Two ~~lay~~ PUBLIC members ~~appointed by the governor pursuant to section 38-211~~.

B. ~~No~~ TO BE QUALIFIED FOR APPOINTMENT:

1. A pharmacist ~~shall be appointed to the board unless he has been~~ MUST BE licensed as a pharmacist in this state or any other jurisdiction for a period of AT LEAST ten years and licensed as a pharmacist and a resident in this state for a period of at least five years immediately ~~prior to~~ BEFORE the date of appointment.

2. ~~The lay members shall have been residents in~~ EACH PUBLIC MEMBER MUST BE A RESIDENT OF this state for a period of at least five years immediately ~~prior to~~ BEFORE the date of appointment.

3. A PHARMACY TECHNICIAN MUST BE A PRACTICING PHARMACY TECHNICIAN IN THIS STATE OR ANY OTHER JURISDICTION FOR AT LEAST FIVE YEARS AND BE LICENSED AS A PHARMACY TECHNICIAN AND A RESIDENT OF THIS STATE FOR AT LEAST FIVE YEARS IMMEDIATELY BEFORE THE DATE OF APPOINTMENT. A PHARMACY TECHNICIAN APPOINTED BEFORE JULY 1, 2009 DOES NOT HAVE TO MEET THE MINIMUM FIVE YEAR LICENSURE REQUIREMENT OF THIS PARAGRAPH.

C. Each pharmacist AND PHARMACY TECHNICIAN member shall serve for a term of five years. ~~The lay~~ PUBLIC members ~~shall serve at the pleasure of the governor. The lay members~~ may serve for a term of five years unless removed by the governor. The ~~lay~~ PUBLIC members shall after the first of every year present a written report to the governor. Vacancies occurring on the board other than by expiration of term of office shall be filled for the unexpired portion of the term only.

~~B.~~ D. On or before January 15 of each year in which a pharmacist OR A PHARMACY TECHNICIAN is to be appointed, the ~~secretary~~ EXECUTIVE DIRECTOR of the ~~Arizona pharmaceutical~~ PHARMACY association OF ARIZONA may submit to the governor a list of the names of at least seven of its members who have been nominated by the association, and who meet the requirements as provided in

this section for the next occurring vacancy on the board. The governor may make appointments of licensed pharmacists AND PHARMACY TECHNICIANS to the board from the nominees on the list or from others having the necessary qualifications.

~~C.~~ E. Appointees to the board ~~shall,~~ within thirty days after their appointment~~,~~ SHALL take and subscribe to an oath or affirmation, before a properly qualified officer, that they will faithfully and impartially perform the duties of their office. ~~and such~~ THE EXECUTIVE DIRECTOR SHALL FILE THE oath or affirmation ~~shall be filed~~ with the secretary of state.

~~D.~~ F. Members of the board ~~of pharmacy shall be~~ ARE personally exempt from suit with respect to all acts done and actions taken in good faith and in furtherance of this chapter.

Sec. 5. Section 32-1903, Arizona Revised Statutes, is amended to read:

32-1903. Organization; meetings; quorum; compensation of board; executive director; compensation; powers and duties

A. The board shall annually elect a president and a vice-president from among its membership~~,~~ and SELECT an executive director who may or may not be a member of the board. The executive director ~~may be elected for a term of not to exceed two years and~~ shall serve at the pleasure of the board.

B. The president of the board shall preside at all of its meetings. ~~, and, in his absence,~~ The vice-president shall act IF THE PRESIDENT IS ABSENT. A majority of the membership of the board ~~shall constitute~~ CONSTITUTES a quorum.

C. The executive director ~~shall be~~ IS the executive officer in charge of the board's office~~,~~ and shall administer ~~the provisions of~~ this chapter~~,~~ under the direction of the board. The executive director shall make, keep and be in charge of all records and record books required to be kept by the board, including a register of all licensees and registered businesses under this chapter. The executive director shall attend to the correspondence of the board and perform other duties the board requires. The executive director is eligible to receive compensation as determined pursuant to section 38-611.

D. Any member of the board or the executive director may administer oaths in connection with the duties of the board. The books, registers and records of the board as made and kept by the executive director or under the executive director's supervision are prima facie evidence of the matter therein recorded in any court of law. Members of the board are eligible to receive compensation in the amount of two hundred dollars for each day of actual service in the business of the board and reimbursement for all expenses necessarily and properly incurred in attending meetings of or for the board.

E. The executive director may designate the deputy director to sign claims and other documents in the executive director's absence. IF THE EXECUTIVE DIRECTOR DIES, BECOMES INCAPACITATED OR RESIGNS, THE DEPUTY

DIRECTOR SHALL SERVE AS THE EXECUTIVE DIRECTOR UNTIL THE BOARD SELECTS A NEW EXECUTIVE DIRECTOR.

F. The executive director may cause to be published reports summarizing judgments, decrees, court orders and board action ~~which~~ THAT may have been rendered under this chapter, including the nature of charges and the disposition of the charges. The executive director may disseminate information regarding drugs, devices, poisons or hazardous substances in situations the executive director believes involve imminent danger to health or gross deception of the consumer and report the results of investigations carried out under this chapter.

Sec. 6. Section 32-1922, Arizona Revised Statutes, is amended to read:

32-1922. Qualifications of applicant; reciprocity; preliminary equivalency examination; honorary certificate; fee

A. An applicant for licensure as a pharmacist shall:

1. Be of good moral character.

2. Be a graduate of a school or college of pharmacy or department of pharmacy of a university recognized by the board or qualify under subsection ~~C~~ D OF THIS SECTION.

3. Have successfully completed, as substantiated by proper affidavits, a program of practical experience under the direct supervision of a licensed pharmacist approved by the board.

4. Pass the pharmacist licensure examination and jurisprudence examination approved by the board. An applicant who fails an examination three times shall petition the board for permission before retaking the examination. The board shall evaluate the petition and determine whether to require additional educational training before approving each additional retake of the examination.

5. Pay an application fee prescribed by the board of not more than five hundred dollars. An applicant for reciprocal licensure shall pay the fee prescribed in section 32-1924, subsection D.

B. The board may license as a pharmacist, without a pharmacist licensure examination, a person who is licensed as a pharmacist by a pharmacist licensure examination in some other jurisdiction if that person:

1. Produces satisfactory evidence to the board of having had the required secondary and professional education and training.

2. Is possessed of good morals as demanded of applicants for licensure and relicensure under this chapter.

3. Presents proof to the board's satisfaction of initial licensure by a pharmacist licensure examination substantially equivalent to the pharmacist licensure examination required by the board and that the applicant holds the license in good standing.

4. Presents proof to the board's satisfaction that any other license granted to the applicant by any other jurisdiction has not been suspended, revoked or otherwise restricted for any reason except nonrenewal or for failure to obtain the required continuing education credits in any

jurisdiction where the applicant is currently licensed but not engaged in the practice of pharmacy.

5. Passes a board approved jurisprudence examination.

C. Subsection B of this section applies only if the jurisdiction in which the person is licensed grants, under like conditions, reciprocal licensure as a pharmacist to a pharmacist licensed by examination in this state.

D. If an applicant for licensure is a graduate of a pharmacy degree program at a school or college of pharmacy that was not recognized by the board at the time of the person's graduation, the applicant shall pass a preliminary equivalency examination approved by the board in order to qualify to take the examinations prescribed in subsection A of this section.

E. The preliminary equivalency examination required pursuant to subsection D of this section shall cover proficiency in English and academic areas the board deems essential to a satisfactory pharmacy curriculum.

F. An applicant who fails the preliminary equivalency examination required pursuant to subsection D of this section shall not retake the preliminary equivalency examination until the applicant files written proof with the board that the applicant has completed additional remedial academic work previously approved by the board to correct deficiencies in the applicant's education that were indicated by the results of the applicant's last preliminary equivalency examination.

G. A pharmacist who has been licensed in this state for at least fifty years shall be granted an honorary certificate of licensure by the board without the payment of the usual renewal fee, but that certificate of licensure does not confer an exemption from any other requirement of this chapter.

H. The board may require a pharmacist who has not been actively engaged in the practice of pharmacy for over one year to serve not more than four hundred hours in an internship training program approved by the board or its designee before the pharmacist may resume the active practice of pharmacy.

I. An applicant must complete the application process within twelve months after submitting the application.

Sec. 7. Repeal

Sections 32-1927, 32-1927.01 and 32-1932, Arizona Revised Statutes, are repealed.

Sec. 8. Title 32, chapter 18, article 2, Arizona Revised Statutes, is amended by adding new sections 32-1927 and 32-1927.01 and section 32-1927.02, to read:

32-1927. Pharmacists; pharmacy interns; graduate interns; disciplinary action

A. A PHARMACIST, PHARMACY INTERN OR GRADUATE INTERN IS SUBJECT TO DISCIPLINARY ACTION BY THE BOARD FOR ANY OF THE FOLLOWING:

1. THE BOARD DETERMINES THAT THE LICENSEE HAS COMMITTED AN ACT OF UNPROFESSIONAL CONDUCT.

2. THE LICENSEE IS FOUND BY PSYCHIATRIC EXAMINATION TO BE MENTALLY UNFIT TO PRACTICE THE PROFESSION OF PHARMACY.

3. THE LICENSEE IS FOUND TO BE PHYSICALLY OR MENTALLY INCAPACITATED TO SUCH A DEGREE AS TO RENDER THE LICENSEE UNFIT TO PRACTICE THE PROFESSION OF PHARMACY.

4. THE LICENSEE IS FOUND TO BE PROFESSIONALLY INCOMPETENT TO SUCH A DEGREE AS TO RENDER THE LICENSEE UNFIT TO PRACTICE THE PROFESSION OF PHARMACY.

5. THE LICENSE WAS ISSUED THROUGH ERROR.

B. A PHARMACIST, PHARMACY INTERN OR GRADUATE INTERN WHO AFTER A FORMAL HEARING IS FOUND BY THE BOARD TO BE GUILTY OF UNPROFESSIONAL CONDUCT, TO BE MENTALLY OR PHYSICALLY UNABLE SAFELY TO ENGAGE IN THE PRACTICE OF PHARMACY OR TO BE PROFESSIONALLY INCOMPETENT IS SUBJECT TO ANY ONE OR COMBINATION OF THE FOLLOWING:

1. A CIVIL PENALTY OF NOT TO EXCEED ONE THOUSAND DOLLARS FOR EACH VIOLATION OF THIS CHAPTER OR A RULE ADOPTED UNDER THIS CHAPTER.

2. A LETTER OF REPRIMAND.

3. A DECREE OF CENSURE.

4. PROBATION.

5. SUSPENSION OR REVOCATION OF THE LICENSE.

C. THE BOARD MAY CHARGE THE COSTS OF FORMAL HEARINGS TO THE LICENSEE WHO IT FINDS TO BE IN VIOLATION OF THIS CHAPTER OR A RULE ADOPTED UNDER THIS CHAPTER.

D. THE BOARD ON ITS OWN MOTION MAY INVESTIGATE ANY EVIDENCE THAT APPEARS TO SHOW THAT A PHARMACIST, PHARMACY INTERN OR GRADUATE INTERN IS OR MAY BE PROFESSIONALLY INCOMPETENT, IS OR MAY BE GUILTY OF UNPROFESSIONAL CONDUCT OR IS OR MAY BE MENTALLY OR PHYSICALLY UNABLE SAFELY TO ENGAGE IN THE PRACTICE OF PHARMACY. ANY PERSON MAY, AND A LICENSEE OR PERMITTEE OF THE BOARD MUST, REPORT TO THE BOARD ANY INFORMATION THAT APPEARS TO SHOW THAT A PHARMACIST, PHARMACY INTERN OR GRADUATE INTERN IS OR MAY BE PROFESSIONALLY INCOMPETENT, IS OR MAY BE GUILTY OF UNPROFESSIONAL CONDUCT OR IS OR MAY BE MENTALLY OR PHYSICALLY UNABLE SAFELY TO ENGAGE IN THE PRACTICE OF PHARMACY. THE BOARD OR THE EXECUTIVE DIRECTOR SHALL NOTIFY THE PHARMACIST, PHARMACY INTERN OR GRADUATE INTERN AS TO THE CONTENT OF THE COMPLAINT AS SOON AS REASONABLE. ANY PERSON OR ENTITY THAT REPORTS OR PROVIDES INFORMATION TO THE BOARD IN GOOD FAITH IS NOT SUBJECT TO AN ACTION FOR CIVIL DAMAGES. IT IS AN ACT OF UNPROFESSIONAL CONDUCT FOR ANY PHARMACIST, PHARMACY INTERN OR GRADUATE INTERN TO FAIL TO REPORT AS REQUIRED BY THIS SECTION.

E. THE PHARMACY PERMITTEE OR PHARMACIST IN CHARGE OF A PHARMACY LOCATED IN THIS STATE MUST INFORM THE BOARD IF A PHARMACIST, PHARMACY INTERN OR GRADUATE INTERN EMPLOYED BY THE PHARMACY IS TERMINATED BECAUSE OF ACTIONS BY THE PHARMACIST, PHARMACY INTERN OR GRADUATE INTERN THAT APPEAR TO SHOW THAT THE PHARMACIST, PHARMACY INTERN OR GRADUATE INTERN IS OR MAY BE

PROFESSIONALLY INCOMPETENT, IS OR MAY BE GUILTY OF UNPROFESSIONAL CONDUCT OR IS OR MAY BE MENTALLY OR PHYSICALLY UNABLE SAFELY TO ENGAGE IN THE PRACTICE OF PHARMACY, ALONG WITH A GENERAL STATEMENT OF THE REASONS THAT LED THE PHARMACY TO TAKE THE ACTION. THE PHARMACY PERMITTEE OR PHARMACIST IN CHARGE OF A PHARMACY LOCATED IN THIS STATE MUST INFORM THE BOARD IF A PHARMACIST, PHARMACY INTERN OR GRADUATE INTERN UNDER INVESTIGATION RESIGNS OR IF A PHARMACIST, PHARMACY INTERN OR GRADUATE INTERN RESIGNS IN LIEU OF DISCIPLINARY ACTION BY THE PHARMACY. NOTIFICATION MUST INCLUDE A GENERAL STATEMENT OF THE REASONS FOR THE RESIGNATION. A PERSON WHO REPORTS INFORMATION IN GOOD FAITH PURSUANT TO THIS SUBSECTION IS NOT SUBJECT TO CIVIL LIABILITY.

F. THE BOARD OR, IF DELEGATED BY THE BOARD, THE EXECUTIVE DIRECTOR SHALL REQUIRE ANY COMBINATION OF MENTAL, PHYSICAL, PSYCHOLOGICAL, PSYCHIATRIC OR MEDICAL COMPETENCY EXAMINATIONS OR PHARMACIST LICENSURE EXAMINATIONS AND CONDUCT NECESSARY INVESTIGATIONS INCLUDING INVESTIGATIONAL INTERVIEWS BETWEEN REPRESENTATIVES OF THE BOARD AND THE PHARMACIST, PHARMACY INTERN OR GRADUATE INTERN TO FULLY INFORM ITSELF ABOUT ANY INFORMATION FILED WITH THE BOARD UNDER THIS SECTION. THESE EXAMINATIONS MAY ALSO INCLUDE BIOLOGICAL FLUID TESTING. THE BOARD MAY REQUIRE THE PHARMACIST, PHARMACY INTERN OR GRADUATE INTERN, AT THAT PERSON'S EXPENSE, TO UNDERGO ASSESSMENT BY A BOARD APPROVED SUBSTANCE ABUSE TREATMENT AND REHABILITATION PROGRAM.

G. IF AFTER COMPLETING ITS INVESTIGATION THE BOARD FINDS THAT THE INFORMATION PROVIDED PURSUANT TO THIS SECTION IS NOT OF SUFFICIENT SERIOUSNESS TO MERIT DISCIPLINARY ACTION AGAINST THE LICENSE OF THE PHARMACIST, PHARMACY INTERN OR GRADUATE INTERN, THE BOARD MAY TAKE ANY OF THE FOLLOWING ACTIONS:

1. DISMISS IF THE COMPLAINT IS WITHOUT MERIT.

2. FILE AN ADVISORY LETTER. THE LICENSEE MAY FILE A WRITTEN RESPONSE WITH THE BOARD WITHIN THIRTY DAYS AFTER RECEIVING THE ADVISORY LETTER.

H. THE BOARD SHALL NOT DISCLOSE THE NAME OF THE PERSON WHO PROVIDED INFORMATION REGARDING A LICENSEE'S DRUG OR ALCOHOL IMPAIRMENT OR THE NAME OF THE PERSON WHO FILES A COMPLAINT IF THAT PERSON REQUESTS ANONYMITY.

I. IF AFTER COMPLETING ITS INVESTIGATION THE BOARD BELIEVES THAT THE INFORMATION IS OR MAY BE TRUE, IT MAY REQUEST A CONFERENCE WITH THE PHARMACIST, PHARMACY INTERN OR GRADUATE INTERN. IF THE PHARMACIST, PHARMACY INTERN OR GRADUATE INTERN REFUSES THE INVITATION FOR CONFERENCE AND THE INVESTIGATION INDICATES THAT GROUNDS MAY EXIST FOR REVOCATION OR SUSPENSION OF A LICENSE, PROBATION, ISSUANCE OF A DECREE OF CENSURE OR A LETTER OF REPRIMAND OR IMPOSITION OF A CIVIL PENALTY, THE BOARD SHALL ISSUE A FORMAL NOTICE THAT A HEARING BE HELD PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10.

J. IF THROUGH INFORMATION PROVIDED PURSUANT TO THIS SECTION OR BY OTHER MEANS, THE BOARD FINDS THAT THE PROTECTION OF THE PUBLIC HEALTH, WELFARE AND SAFETY REQUIRES EMERGENCY ACTION AGAINST THE LICENSE OF A PHARMACIST, PHARMACY INTERN OR GRADUATE INTERN, IT MAY ORDER A SUMMARY SUSPENSION OF THE LICENSE PENDING A FORMAL HEARING FOR LICENSE REVOCATION OR

OTHER ACTION AUTHORIZED BY THIS SECTION TO BE HELD BY THE BOARD WITHIN TEN DAYS AFTER IT ISSUES THE ORDER.

K. IF AFTER COMPLETING THE CONFERENCE THE BOARD FINDS THE INFORMATION PROVIDED PURSUANT TO THIS SECTION IS NOT OF SUFFICIENT SERIOUSNESS TO MERIT REVOCATION OR SUSPENSION OF A LICENSE, PROBATION, ISSUANCE OF A DECREE OF CENSURE OR A LETTER OF REPRIMAND OR IMPOSITION OF A CIVIL PENALTY, IT MAY TAKE THE FOLLOWING ACTIONS:

1. DISMISS IF THE INFORMATION IS WITHOUT MERIT.

2. FILE AN ADVISORY LETTER. THE LICENSEE MAY FILE A WRITTEN RESPONSE WITH THE BOARD WITHIN THIRTY DAYS AFTER THE LICENSEE RECEIVES THE ADVISORY LETTER.

L. IF DURING A CONFERENCE THE BOARD FINDS THAT THE INFORMATION PROVIDED PURSUANT TO THIS SECTION INDICATES THAT GROUNDS MAY EXIST FOR REVOCATION OR SUSPENSION OF A LICENSE, PROBATION, ISSUANCE OF A DECREE OF CENSURE OR A LETTER OF REPRIMAND OR IMPOSITION OF A CIVIL PENALTY, IT MAY TAKE THE FOLLOWING ACTIONS:

1. DISMISS IF THE INFORMATION IS WITHOUT MERIT.

2. FILE AN ADVISORY LETTER. THE LICENSEE MAY FILE A WRITTEN RESPONSE WITH THE BOARD WITHIN THIRTY DAYS AFTER THE LICENSEE RECEIVES THE ADVISORY LETTER.

3. ENTER INTO AN AGREEMENT WITH THE LICENSEE TO DISCIPLINE THE LICENSEE, RESTRICT THE LICENSEE'S PRACTICE OR PROFESSIONAL ACTIVITIES OR REHABILITATE, RETRAIN OR ASSESS THE LICENSEE IN ORDER TO PROTECT THE PUBLIC AND ENSURE THE LICENSEE'S ABILITY TO SAFELY ENGAGE IN THE PRACTICE OF PHARMACY. THE AGREEMENT MAY INCLUDE AT LEAST THE FOLLOWING:

(a) ISSUANCE OF A LETTER OF REPRIMAND.

(b) ISSUANCE OF A DECREE OF CENSURE.

(c) PRACTICE OR PROFESSIONAL RESTRICTIONS, SUCH AS NOT ACTING AS A PHARMACIST IN CHARGE OR PHARMACY INTERN PRECEPTOR OR WORKING WITH ANOTHER PHARMACIST.

(d) REHABILITATIVE, RETRAINING OR ASSESSMENT PROGRAMS INCLUDING:

(i) BOARD APPROVED COMMUNITY SERVICE.

(ii) SUCCESSFUL COMPLETION OF ADDITIONAL PHARMACIST CONTINUING EDUCATION HOURS.

(iii) SUCCESSFUL PASSAGE OF BOARD APPROVED PHARMACIST LICENSURE EXAMINATIONS.

(iv) SUCCESSFUL COMPLETION OF A BOARD APPROVED SUBSTANCE ABUSE TREATMENT AND REHABILITATION PROGRAM AT THE LICENSEE'S OWN EXPENSE.

(e) A CIVIL PENALTY NOT TO EXCEED ONE THOUSAND DOLLARS FOR EACH VIOLATION OF THIS CHAPTER OR A RULE ADOPTED UNDER THIS CHAPTER.

(f) A PERIOD AND TERMS OF PROBATION BEST ADAPTED TO PROTECT THE PUBLIC HEALTH AND SAFETY AND REHABILITATE OR EDUCATE THE LICENSEE CONCERNED. PROBATION MAY INCLUDE TEMPORARY SUSPENSION AND ANY OR ALL OF THE DISCIPLINARY ACTIONS, PRACTICE OR PROFESSIONAL RESTRICTIONS, REHABILITATIVE, RETRAINING OR

ASSESSMENT PROGRAMS LISTED IN THIS SECTION OR ANY OTHER PROGRAM AGREED TO BY THE BOARD AND THE LICENSEE.

M. IF THE BOARD FINDS THAT THE INFORMATION PROVIDED PURSUANT TO THIS SECTION AND ADDITIONAL INFORMATION PROVIDED DURING THE CONFERENCE WARRANTS REVOCATION OR SUSPENSION OF A LICENSE, PROBATION, ISSUANCE OF A DECREE OF CENSURE OR A LETTER OF REPRIMAND OR IMPOSITION OF A CIVIL PENALTY, IT SHALL INITIATE FORMAL PROCEEDINGS PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10.

N. IF THE BOARD FINDS THAT THE INFORMATION PROVIDED PURSUANT TO THIS SECTION WARRANTS REVOCATION OR SUSPENSION OF A LICENSE, PROBATION, ISSUANCE OF A DECREE OF CENSURE OR A LETTER OF REPRIMAND OR IMPOSITION OF A CIVIL PENALTY, IT SHALL INITIATE FORMAL PROCEEDINGS PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10.

O. IF THE LICENSEE WISHES TO BE PRESENT AT THE FORMAL HEARING IN PERSON OR BY REPRESENTATION, OR BOTH, THE LICENSEE MUST FILE WITH THE BOARD AN ANSWER TO THE CHARGES IN THE NOTICE OF HEARING. THE ANSWER MUST BE IN WRITING, VERIFIED UNDER OATH AND FILED WITHIN THIRTY DAYS AFTER SERVICE OF THE NOTICE OF HEARING. FAILURE TO ANSWER THE BOARD'S NOTICE OF HEARING IS DEEMED AN ADMISSION OF THE CHARGES IN THE NOTICE OF HEARING.

P. AN ADVISORY LETTER IS A NONDISCIPLINARY PUBLIC DOCUMENT.

Q. IF THE BOARD DURING AN INVESTIGATION DETERMINES THAT A CRIMINAL VIOLATION MIGHT HAVE OCCURRED, IT SHALL DISCLOSE ITS INVESTIGATIVE EVIDENCE AND INFORMATION TO THE APPROPRIATE CRIMINAL JUSTICE AGENCY FOR ITS CONSIDERATION.

R. IN DETERMINING THE APPROPRIATE DISCIPLINARY ACTION UNDER THIS SECTION, THE BOARD SHALL CONSIDER ALL PREVIOUS NONDISCIPLINARY AND DISCIPLINARY ACTIONS AGAINST A LICENSEE.

S. THE BOARD MAY DENY A LICENSE TO AN APPLICANT FOR THE GROUNDS PRESCRIBED IN SUBSECTION A OF THIS SECTION.

T. A PERSON LICENSED PURSUANT TO THIS CHAPTER OR BY ANY OTHER JURISDICTION WHO HAS A LICENSE REVOKED OR SUSPENDED SHALL NOT OBTAIN A LICENSE AS A PHARMACY INTERN, GRADUATE INTERN, PHARMACY TECHNICIAN OR PHARMACY TECHNICIAN TRAINEE OR WORK AS A PHARMACY INTERN, GRADUATE INTERN, PHARMACY TECHNICIAN OR PHARMACY TECHNICIAN TRAINEE WITHOUT THE APPROVAL OF THE BOARD OR ITS DESIGNEE.

32-1927.01. Pharmacy technicians; pharmacy technician trainees; disciplinary action

A. A PHARMACY TECHNICIAN OR PHARMACY TECHNICIAN TRAINEE IS SUBJECT TO DISCIPLINARY ACTION BY THE BOARD FOR ANY OF THE FOLLOWING:

1. THE BOARD DETERMINES THAT THE LICENSEE HAS COMMITTED AN ACT OF UNPROFESSIONAL CONDUCT.

2. THE LICENSEE IS FOUND BY PSYCHIATRIC EXAMINATION TO BE MENTALLY UNFIT TO SAFELY PERFORM THE LICENSEE'S EMPLOYMENT DUTIES.

3. THE LICENSEE IS FOUND TO BE PHYSICALLY OR MENTALLY INCAPACITATED TO SUCH A DEGREE AS TO RENDER THE LICENSEE UNFIT TO SAFELY PERFORM THE LICENSEE'S EMPLOYMENT DUTIES.

4. THE LICENSEE IS FOUND TO BE PROFESSIONALLY INCOMPETENT TO SUCH A DEGREE AS TO RENDER THE LICENSEE UNFIT TO SAFELY PERFORM THE LICENSEE'S EMPLOYMENT DUTIES.

5. THE LICENSE WAS ISSUED THROUGH ERROR.

B. A PHARMACY TECHNICIAN OR PHARMACY TECHNICIAN TRAINEE WHO AFTER A FORMAL HEARING IS FOUND BY THE BOARD TO BE GUILTY OF UNPROFESSIONAL CONDUCT, TO BE MENTALLY OR PHYSICALLY UNABLE SAFELY TO ENGAGE IN THE PRACTICE OF PHARMACY OR TO BE PROFESSIONALLY INCOMPETENT IS SUBJECT TO ANY ONE OR COMBINATION OF THE FOLLOWING:

1. A CIVIL PENALTY OF NOT TO EXCEED ONE THOUSAND DOLLARS FOR EACH VIOLATION OF THIS CHAPTER OR A RULE ADOPTED UNDER THIS CHAPTER.

2. A LETTER OF REPRIMAND.

3. A DECREE OF CENSURE.

4. PROBATION.

5. SUSPENSION OR REVOCATION OF THE LICENSE.

C. THE BOARD MAY CHARGE THE COSTS OF FORMAL HEARINGS TO THE LICENSEE WHO IT FINDS TO BE IN VIOLATION OF THIS CHAPTER OR A RULE ADOPTED UNDER THIS CHAPTER.

D. THE BOARD ON ITS OWN MOTION MAY INVESTIGATE ANY EVIDENCE THAT APPEARS TO SHOW THAT A PHARMACY TECHNICIAN OR PHARMACY TECHNICIAN TRAINEE IS OR MAY BE PROFESSIONALLY INCOMPETENT, IS OR MAY BE GUILTY OF UNPROFESSIONAL CONDUCT OR IS OR MAY BE MENTALLY OR PHYSICALLY UNABLE SAFELY TO ENGAGE IN THE PERMISSIBLE ACTIVITIES OF A PHARMACY TECHNICIAN OR PHARMACY TECHNICIAN TRAINEE. ANY PERSON MAY, AND A LICENSEE OR PERMITTEE OF THE BOARD MUST, REPORT TO THE BOARD ANY INFORMATION THAT APPEARS TO SHOW THAT A PHARMACY TECHNICIAN OR PHARMACY TECHNICIAN TRAINEE IS OR MAY BE PROFESSIONALLY INCOMPETENT, IS OR MAY BE GUILTY OF UNPROFESSIONAL CONDUCT OR IS OR MAY BE MENTALLY OR PHYSICALLY UNABLE SAFELY TO ENGAGE IN THE PERMISSIBLE ACTIVITIES OF A PHARMACY TECHNICIAN OR PHARMACY TECHNICIAN TRAINEE. THE BOARD OR THE EXECUTIVE DIRECTOR SHALL NOTIFY THE PHARMACY TECHNICIAN OR PHARMACY TECHNICIAN TRAINEE AS TO THE CONTENT OF THE COMPLAINT AS SOON AS REASONABLE. ANY PERSON OR ENTITY THAT REPORTS OR PROVIDES INFORMATION TO THE BOARD IN GOOD FAITH IS NOT SUBJECT TO AN ACTION FOR CIVIL DAMAGES. IT IS AN ACT OF UNPROFESSIONAL CONDUCT FOR ANY PHARMACY TECHNICIAN OR PHARMACY TECHNICIAN TRAINEE TO FAIL TO REPORT AS REQUIRED BY THIS SECTION.

E. THE PHARMACY PERMITTEE OR PHARMACIST IN CHARGE OF A PHARMACY LOCATED IN THIS STATE MUST INFORM THE BOARD IF A PHARMACY TECHNICIAN OR PHARMACY TECHNICIAN TRAINEE EMPLOYED BY THE PHARMACY IS TERMINATED BECAUSE OF ACTIONS BY THAT PERSON THAT APPEAR TO SHOW THAT THE PERSON IS OR MAY BE PROFESSIONALLY INCOMPETENT, IS OR MAY BE GUILTY OF UNPROFESSIONAL CONDUCT OR IS OR MAY BE MENTALLY OR PHYSICALLY UNABLE SAFELY TO ENGAGE IN THE PERMISSIBLE ACTIVITIES OF A PHARMACY TECHNICIAN OR PHARMACY TECHNICIAN TRAINEE, ALONG WITH A GENERAL STATEMENT OF THE REASONS THAT LED THE PHARMACY TO TAKE THE ACTION. THE PHARMACY PERMITTEE OR PHARMACIST IN CHARGE OF A PHARMACY LOCATED IN THIS STATE MUST INFORM THE BOARD IF A PHARMACY TECHNICIAN

OR PHARMACY TECHNICIAN TRAINEE UNDER INVESTIGATION RESIGNS OR IF A PHARMACY TECHNICIAN OR PHARMACY TECHNICIAN TRAINEE RESIGNS IN LIEU OF DISCIPLINARY ACTION BY THE PHARMACY. NOTIFICATION MUST INCLUDE A GENERAL STATEMENT OF THE REASONS FOR THE RESIGNATION. A PERSON WHO REPORTS INFORMATION IN GOOD FAITH PURSUANT TO THIS SUBSECTION IS NOT SUBJECT TO CIVIL LIABILITY.

F. THE BOARD OR, IF DELEGATED BY THE BOARD, THE EXECUTIVE DIRECTOR SHALL REQUIRE ANY COMBINATION OF MENTAL, PHYSICAL, PSYCHOLOGICAL, PSYCHIATRIC OR MEDICAL COMPETENCY EXAMINATIONS OR PHARMACY TECHNICIAN LICENSURE EXAMINATIONS AND CONDUCT NECESSARY INVESTIGATIONS INCLUDING INVESTIGATIONAL INTERVIEWS BETWEEN REPRESENTATIVES OF THE BOARD AND THE PHARMACY TECHNICIAN OR PHARMACY TECHNICIAN TRAINEE TO FULLY INFORM ITSELF ABOUT ANY INFORMATION FILED WITH THE BOARD PURSUANT TO THIS SECTION. THESE EXAMINATIONS MAY ALSO INCLUDE BIOLOGICAL FLUID TESTING. THE BOARD MAY REQUIRE THE LICENSEE, AT THAT PERSON'S EXPENSE, TO UNDERGO ASSESSMENT BY A BOARD APPROVED SUBSTANCE ABUSE TREATMENT AND REHABILITATION PROGRAM.

G. IF AFTER COMPLETING ITS INVESTIGATION THE BOARD FINDS THAT THE INFORMATION PROVIDED PURSUANT TO THIS SECTION IS NOT OF SUFFICIENT SERIOUSNESS TO MERIT DISCIPLINARY ACTION AGAINST THE LICENSE OF THE PHARMACY TECHNICIAN OR PHARMACY TECHNICIAN TRAINEE, THE BOARD MAY TAKE ANY OF THE FOLLOWING ACTIONS:

1. DISMISS IF THE COMPLAINT IS WITHOUT MERIT.

2. FILE AN ADVISORY LETTER. THE LICENSEE MAY FILE A WRITTEN RESPONSE WITH THE BOARD WITHIN THIRTY DAYS AFTER RECEIVING THE ADVISORY LETTER.

H. THE BOARD SHALL NOT DISCLOSE THE NAME OF THE PERSON WHO PROVIDED INFORMATION REGARDING A LICENSEE'S DRUG OR ALCOHOL IMPAIRMENT OR THE NAME OF THE PERSON WHO FILES A COMPLAINT IF THAT PERSON REQUESTS ANONYMITY.

I. IF AFTER COMPLETING ITS INVESTIGATION THE BOARD BELIEVES THAT THE INFORMATION IS OR MAY BE TRUE, IT MAY REQUEST A CONFERENCE WITH THE LICENSEE. IF THE LICENSEE REFUSES THE INVITATION FOR CONFERENCE AND THE INVESTIGATION INDICATES THAT GROUNDS MAY EXIST FOR REVOCATION OR SUSPENSION OF A LICENSE, PROBATION, ISSUANCE OF A DECREE OF CENSURE OR A LETTER OF REPRIMAND OR IMPOSITION OF A CIVIL PENALTY, THE BOARD SHALL ISSUE A FORMAL NOTICE THAT A HEARING BE HELD PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10.

J. IF THROUGH INFORMATION PROVIDED PURSUANT TO THIS SECTION OR BY OTHER MEANS, THE BOARD FINDS THAT THE PROTECTION OF THE PUBLIC HEALTH, WELFARE AND SAFETY REQUIRES EMERGENCY ACTION AGAINST THE LICENSE OF A PHARMACY TECHNICIAN OR PHARMACY TECHNICIAN TRAINEE, IT MAY ORDER A SUMMARY SUSPENSION OF THE LICENSE PENDING A FORMAL HEARING FOR LICENSE REVOCATION OR OTHER ACTION AUTHORIZED BY THIS SECTION TO BE HELD BY THE BOARD WITHIN TEN DAYS AFTER IT ISSUES THE ORDER.

K. IF AFTER COMPLETING THE CONFERENCE THE BOARD FINDS THE INFORMATION PROVIDED PURSUANT TO THIS SECTION IS NOT OF SUFFICIENT SERIOUSNESS TO MERIT REVOCATION OR SUSPENSION OF A LICENSE, PROBATION, ISSUANCE OF A DECREE OF CENSURE OR A LETTER OF REPRIMAND OR IMPOSITION OF A CIVIL PENALTY, IT MAY TAKE THE FOLLOWING ACTIONS:

1. DISMISS IF THE INFORMATION IS WITHOUT MERIT.

2. FILE AN ADVISORY LETTER. THE LICENSEE MAY FILE A WRITTEN RESPONSE WITH THE BOARD WITHIN THIRTY DAYS AFTER THE LICENSEE RECEIVES THE ADVISORY LETTER.

L. IF DURING A CONFERENCE THE BOARD FINDS THAT THE INFORMATION PROVIDED PURSUANT TO THIS SECTION INDICATES THAT GROUNDS MAY EXIST FOR REVOCATION OR SUSPENSION OF A LICENSE, PROBATION, ISSUANCE OF A DECREE OF CENSURE OR A LETTER OF REPRIMAND OR IMPOSITION OF A CIVIL PENALTY, IT MAY TAKE THE FOLLOWING ACTIONS:

1. DISMISS IF THE INFORMATION IS WITHOUT MERIT.

2. FILE AN ADVISORY LETTER. THE LICENSEE MAY FILE A WRITTEN RESPONSE WITH THE BOARD WITHIN THIRTY DAYS AFTER THE LICENSEE RECEIVES THE ADVISORY LETTER.

3. ENTER INTO AN AGREEMENT WITH THE LICENSEE TO DISCIPLINE THE LICENSEE, RESTRICT THE LICENSEE'S PRACTICE OR PROFESSIONAL ACTIVITIES OR REHABILITATE, RETRAIN OR ASSESS THE LICENSEE IN ORDER TO PROTECT THE PUBLIC AND ENSURE THE LICENSEE'S ABILITY TO SAFELY ENGAGE IN THE PERMISSIBLE ACTIVITIES OF A PHARMACY TECHNICIAN OR PHARMACY TECHNICIAN TRAINEE. THE AGREEMENT MAY INCLUDE AT LEAST THE FOLLOWING:

(a) ISSUANCE OF A LETTER OF REPRIMAND.

(b) ISSUANCE OF A DECREE OF CENSURE.

(c) PRACTICE OR PROFESSIONAL RESTRICTIONS, SUCH AS DOING THE FOLLOWING ONLY UNDER PHARMACIST SUPERVISION:

(i) ENTERING PRESCRIPTION OR PATIENT DATA.

(ii) INITIATING OR ACCEPTING VERBAL REFILL AUTHORIZATION.

(iii) COUNTING, POURING, PACKAGING OR LABELING PRESCRIPTION MEDICATION.

(iv) COMPOUNDING, RECONSTITUTING, PREPACKAGING OR REPACKAGING DRUGS.

(d) REHABILITATIVE, RETRAINING OR ASSESSMENT PROGRAMS INCLUDING:

(i) BOARD APPROVED COMMUNITY SERVICE.

(ii) SUCCESSFUL COMPLETION OF ADDITIONAL PHARMACY CONTINUING EDUCATION HOURS.

(iii) SUCCESSFUL PASSAGE OF BOARD APPROVED PHARMACIST TECHNICIAN LICENSURE EXAMINATIONS.

(iv) SUCCESSFUL COMPLETION OF A BOARD APPROVED SUBSTANCE ABUSE TREATMENT AND REHABILITATION PROGRAM AT THE LICENSEE'S OWN EXPENSE.

(e) A CIVIL PENALTY NOT TO EXCEED ONE THOUSAND DOLLARS FOR EACH VIOLATION OF THIS CHAPTER OR A RULE ADOPTED UNDER THIS CHAPTER.

(f) A PERIOD AND TERMS OF PROBATION BEST ADAPTED TO PROTECT THE PUBLIC HEALTH AND SAFETY AND REHABILITATE OR EDUCATE THE LICENSEE CONCERNED. PROBATION MAY INCLUDE TEMPORARY SUSPENSION AND ANY OR ALL OF THE DISCIPLINARY ACTIONS, PRACTICE OR PROFESSIONAL RESTRICTIONS, REHABILITATIVE, RETRAINING OR ASSESSMENT PROGRAMS LISTED IN THIS SECTION OR ANY OTHER PROGRAM AGREED TO BY THE BOARD AND THE LICENSEE.

M. IF THE BOARD FINDS THAT THE INFORMATION PROVIDED PURSUANT TO THIS SECTION AND ADDITIONAL INFORMATION PROVIDED DURING THE CONFERENCE WARRANTS REVOCATION OR SUSPENSION OF A LICENSE, PROBATION, ISSUANCE OF A DECREE OF CENSURE OR A LETTER OF REPRIMAND OR IMPOSITION OF A CIVIL PENALTY, IT SHALL INITIATE FORMAL PROCEEDINGS PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10.

N. IF THE BOARD FINDS THAT THE INFORMATION PROVIDED PURSUANT TO THIS SECTION WARRANTS REVOCATION OR SUSPENSION OF A LICENSE, PROBATION, ISSUANCE OF A DECREE OF CENSURE OR A LETTER OF REPRIMAND OR IMPOSITION OF A CIVIL PENALTY, IT SHALL INITIATE FORMAL PROCEEDINGS PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10.

O. IF THE LICENSEE WISHES TO BE PRESENT AT THE FORMAL HEARING IN PERSON OR BY REPRESENTATION, OR BOTH, THE LICENSEE MUST FILE WITH THE BOARD AN ANSWER TO THE CHARGES IN THE NOTICE OF HEARING. THE ANSWER MUST BE IN WRITING, VERIFIED UNDER OATH AND FILED WITHIN THIRTY DAYS AFTER SERVICE OF THE NOTICE OF HEARING. FAILURE TO ANSWER THE BOARD'S NOTICE OF HEARING IS DEEMED AN ADMISSION OF THE CHARGES IN THE NOTICE OF HEARING.

P. AN ADVISORY LETTER IS A NONDISCIPLINARY PUBLIC DOCUMENT.

Q. IF THE BOARD DURING AN INVESTIGATION DETERMINES THAT A CRIMINAL VIOLATION MIGHT HAVE OCCURRED, IT SHALL DISCLOSE ITS INVESTIGATIVE EVIDENCE AND INFORMATION TO THE APPROPRIATE CRIMINAL JUSTICE AGENCY FOR ITS CONSIDERATION.

R. IN DETERMINING THE APPROPRIATE DISCIPLINARY ACTION UNDER THIS SECTION, THE BOARD SHALL CONSIDER ALL PREVIOUS NONDISCIPLINARY AND DISCIPLINARY ACTIONS AGAINST A LICENSEE.

S. THE BOARD MAY DENY A LICENSE TO AN APPLICANT FOR THE GROUNDS PRESCRIBED IN SUBSECTION A OF THIS SECTION.

T. A PERSON LICENSED PURSUANT TO THIS CHAPTER OR BY ANY OTHER JURISDICTION WHO HAS A LICENSE REVOKED OR SUSPENDED SHALL NOT OBTAIN A LICENSE AS A PHARMACY TECHNICIAN OR PHARMACY TECHNICIAN TRAINEE OR WORK AS A PHARMACY TECHNICIAN OR PHARMACY TECHNICIAN TRAINEE WITHOUT THE APPROVAL OF THE BOARD OR ITS DESIGNEE.

32-1927.02. Permittees; disciplinary action

A. THE BOARD MAY DISCIPLINE A PERMITTEE IF:

1. THE BOARD DETERMINES THAT THE PERMITTEE OR PERMITTEE'S EMPLOYEE IS GUILTY OF UNETHICAL CONDUCT PURSUANT TO SECTION 32-1901.01, SUBSECTION A.

2. PURSUANT TO A PSYCHIATRIC EXAMINATION, THE PERMITTEE OR THE PERMITTEE'S EMPLOYEE IS FOUND TO BE MENTALLY UNFIT TO SAFELY ENGAGE IN EMPLOYMENT DUTIES.

3. THE BOARD DETERMINES THAT THE PERMITTEE OR THE PERMITTEE'S EMPLOYEE IS PHYSICALLY OR MENTALLY INCAPACITATED TO SUCH A DEGREE AS TO RENDER THE PERMITTEE OR PERMITTEE'S EMPLOYEE UNFIT TO SAFELY ENGAGE IN EMPLOYMENT DUTIES.

4. THE PERMIT WAS ISSUED THROUGH ERROR.

5. A PERMITTEE OR PERMITTEE'S EMPLOYEE ALLOWS A PERSON WHO DOES NOT POSSESS A CURRENT LICENSE ISSUED BY THE BOARD TO WORK AS A PHARMACIST, PHARMACY INTERN, GRADUATE INTERN, PHARMACY TECHNICIAN OR PHARMACY TECHNICIAN TRAINEE.

B. A PERMITTEE WHO AFTER A FORMAL HEARING IS FOUND BY THE BOARD TO BE GUILTY OF UNETHICAL CONDUCT, TO BE MENTALLY OR PHYSICALLY UNABLE SAFELY TO ENGAGE IN EMPLOYMENT DUTIES OR TO BE IN VIOLATION OF THIS CHAPTER OR A RULE ADOPTED UNDER THIS CHAPTER OR WHOSE EMPLOYEE AFTER A FORMAL HEARING IS FOUND BY THE BOARD TO BE GUILTY OF UNETHICAL CONDUCT, TO BE MENTALLY OR PHYSICALLY UNABLE SAFELY TO ENGAGE IN EMPLOYMENT DUTIES OR TO BE IN VIOLATION OF THIS CHAPTER OR A RULE ADOPTED UNDER THIS CHAPTER IS SUBJECT TO ANY ONE OR COMBINATION OF THE FOLLOWING:

1. A CIVIL PENALTY NOT TO EXCEED ONE THOUSAND DOLLARS FOR EACH VIOLATION OF THIS CHAPTER OR A RULE ADOPTED UNDER THIS CHAPTER.

2. A LETTER OF REPRIMAND.

3. A DECREE OF CENSURE.

4. PROBATION.

5. SUSPENSION OR REVOCATION OF THE PERMIT.

C. THE BOARD MAY CHARGE THE COSTS OF FORMAL HEARINGS TO THE PERMITTEE WHO IT FINDS TO BE IN VIOLATION OF THIS CHAPTER OR A RULE ADOPTED UNDER THIS CHAPTER OR WHOSE EMPLOYEE IT FINDS TO BE IN VIOLATION OF THIS CHAPTER OR A RULE ADOPTED UNDER THIS CHAPTER.

D. THE BOARD OF ITS OWN MOTION MAY INVESTIGATE ANY EVIDENCE THAT APPEARS TO SHOW THAT A PERMITTEE OR PERMITTEE'S EMPLOYEE IS OR MAY BE GUILTY OF UNETHICAL CONDUCT, IS OR MAY BE MENTALLY OR PHYSICALLY UNABLE SAFELY TO ENGAGE IN EMPLOYMENT DUTIES OR IS OR MAY BE IN VIOLATION OF THIS CHAPTER OR A RULE ADOPTED UNDER THIS CHAPTER. ANY PERSON MAY, AND ANY LICENSEE OR PERMITTEE MUST, REPORT TO THE BOARD ANY INFORMATION THAT APPEARS TO SHOW THAT A PERMITTEE OR PERMITTEE'S EMPLOYEE IS OR MAY BE GUILTY OF UNETHICAL CONDUCT, IS OR MAY BE MENTALLY OR PHYSICALLY UNABLE SAFELY TO ENGAGE IN EMPLOYMENT DUTIES OR IS OR MAY BE IN VIOLATION OF THIS CHAPTER OR A RULE ADOPTED UNDER THIS CHAPTER. THE BOARD OR THE EXECUTIVE DIRECTOR SHALL NOTIFY THE PERMITTEE AS TO THE CONTENT OF THE COMPLAINT AS SOON AS REASONABLE. ANY PERSON OR ENTITY THAT REPORTS OR PROVIDES INFORMATION TO THE BOARD IN GOOD FAITH IS NOT SUBJECT TO AN ACTION FOR CIVIL DAMAGES. IT IS AN ACT OF UNETHICAL CONDUCT FOR ANY PERMITTEE TO FAIL TO REPORT AS REQUIRED BY THIS SECTION.

E. THE BOARD OR, IF DELEGATED BY THE BOARD, THE EXECUTIVE DIRECTOR SHALL REQUIRE ANY COMBINATION OF MENTAL, PHYSICAL, PSYCHOLOGICAL, PSYCHIATRIC OR MEDICAL COMPETENCY EXAMINATIONS AND CONDUCT NECESSARY INVESTIGATIONS INCLUDING INVESTIGATIONAL INTERVIEWS BETWEEN REPRESENTATIVES OF THE BOARD AND THE PERMITTEE OR PERMITTEE'S EMPLOYEE TO FULLY INFORM ITSELF ABOUT ANY INFORMATION FILED WITH THE BOARD UNDER SUBSECTION D OF THIS SECTION. THESE EXAMINATIONS MAY ALSO INCLUDE BIOLOGICAL FLUID TESTING. THE BOARD MAY REQUIRE THE PERMITTEE OR PERMITTEE'S EMPLOYEE, AT THAT PERSON'S EXPENSE, TO

UNDERGO ASSESSMENT BY A BOARD APPROVED SUBSTANCE ABUSE TREATMENT AND REHABILITATION PROGRAM.

F. IF AFTER COMPLETING ITS INVESTIGATION THE BOARD FINDS THAT THE INFORMATION PROVIDED PURSUANT TO SUBSECTION D OF THIS SECTION IS NOT OF SUFFICIENT SERIOUSNESS TO MERIT DISCIPLINARY ACTION AGAINST THE PERMIT, THE BOARD MAY TAKE ANY OF THE FOLLOWING ACTIONS:

1. DISMISS IF THE COMPLAINT IS WITHOUT MERIT.

2. FILE AN ADVISORY LETTER. THE PERMITTEE MAY FILE A WRITTEN RESPONSE WITH THE BOARD WITHIN THIRTY DAYS AFTER RECEIVING THE ADVISORY LETTER.

G. THE BOARD SHALL NOT DISCLOSE THE NAME OF THE PERSON WHO PROVIDED INFORMATION REGARDING A PERMITTEE'S OR PERMITTEE'S EMPLOYEE'S DRUG OR ALCOHOL IMPAIRMENT OR THE NAME OF THE PERSON WHO FILES A COMPLAINT IF THAT PERSON REQUESTS ANONYMITY.

H. IF AFTER COMPLETING ITS INVESTIGATION THE BOARD BELIEVES THAT THE INFORMATION IS OR MAY BE TRUE, IT MAY REQUEST A CONFERENCE WITH THE PERMITTEE OR PERMITTEE'S EMPLOYEE. IF THE PERMITTEE OR PERMITTEE'S EMPLOYEE REFUSES THE INVITATION FOR CONFERENCE AND THE INVESTIGATION INDICATES THAT GROUNDS MAY EXIST FOR REVOCATION OR SUSPENSION OF A LICENSE, PROBATION, ISSUANCE OF A DECREE OF CENSURE OR A LETTER OF REPRIMAND OR IMPOSITION OF A CIVIL PENALTY, THE BOARD SHALL ISSUE A FORMAL NOTICE THAT A HEARING BE HELD PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10.

I. IF THROUGH INFORMATION PROVIDED PURSUANT TO SUBSECTION D OF THIS SECTION OR BY OTHER MEANS THE BOARD FINDS THAT THE PROTECTION OF THE PUBLIC HEALTH, WELFARE AND SAFETY REQUIRES EMERGENCY ACTION AGAINST THE PERMIT, IT MAY ORDER A SUMMARY SUSPENSION OF THE PERMIT PENDING A FORMAL HEARING FOR PERMIT REVOCATION OR OTHER ACTION AUTHORIZED BY THIS SECTION TO BE HELD BY THE BOARD WITHIN TEN DAYS AFTER THE BOARD ISSUES THE ORDER.

J. IF AFTER COMPLETING THE CONFERENCE THE BOARD FINDS THE INFORMATION PROVIDED PURSUANT TO SUBSECTION D OF THIS SECTION IS NOT OF SUFFICIENT SERIOUSNESS TO MERIT REVOCATION OR SUSPENSION OF A LICENSE, PROBATION, ISSUANCE OF A DECREE OF CENSURE OR A LETTER OF REPRIMAND OR IMPOSITION OF A CIVIL PENALTY, IT MAY TAKE THE FOLLOWING ACTIONS:

1. DISMISS IF THE INFORMATION IS WITHOUT MERIT.

2. FILE AN ADVISORY LETTER. THE PERMITTEE MAY FILE A WRITTEN RESPONSE WITH THE BOARD WITHIN THIRTY DAYS AFTER RECEIVING THE ADVISORY LETTER.

K. IF DURING A CONFERENCE THE BOARD FINDS THAT THE INFORMATION PROVIDED PURSUANT TO SUBSECTION D OF THIS SECTION INDICATES THAT GROUNDS MAY EXIST FOR REVOCATION OR SUSPENSION OF A LICENSE, PROBATION, ISSUANCE OF A DECREE OF CENSURE OR A LETTER OF REPRIMAND OR IMPOSITION OF A CIVIL PENALTY, IT MAY TAKE THE FOLLOWING ACTIONS:

1. DISMISS IF THE INFORMATION IS WITHOUT MERIT.

2. FILE AN ADVISORY LETTER. THE PERMITTEE MAY FILE A WRITTEN RESPONSE WITH THE BOARD WITHIN THIRTY DAYS AFTER THE PERMITTEE RECEIVES THE ADVISORY LETTER.

3. ENTER INTO AN AGREEMENT WITH THE PERMITTEE TO DISCIPLINE THE PERMITTEE, RESTRICT THE PERMITTEE'S BUSINESS ACTIVITIES OR REHABILITATE OR ASSESS THE PERMITTEE IN ORDER TO PROTECT THE PUBLIC AND ENSURE THE PERMITTEE'S ABILITY TO SAFELY ENGAGE IN EMPLOYMENT DUTIES. THE AGREEMENT MAY INCLUDE, AT A MINIMUM, THE FOLLOWING DISCIPLINARY ACTIONS, BUSINESS ACTIVITY RESTRICTIONS AND REHABILITATIVE OR ASSESSMENT PROGRAMS:

(a) ISSUANCE OF A LETTER OF REPRIMAND.

(b) ISSUANCE OF A DECREE OF CENSURE.

(c) BUSINESS ACTIVITY RESTRICTIONS INCLUDING LIMITATIONS ON THE NUMBER, TYPE, CLASSIFICATION OR SCHEDULE OF DRUG, DEVICE, POISON, HAZARDOUS SUBSTANCE, CONTROLLED SUBSTANCE OR PRECURSOR CHEMICAL THAT MAY BE MANUFACTURED, SOLD, DISTRIBUTED OR DISPENSED.

(d) REHABILITATIVE OR ASSESSMENT PROGRAMS, INCLUDING BOARD APPROVED COMMUNITY SERVICE OR SUCCESSFUL COMPLETION OF A BOARD APPROVED SUBSTANCE ABUSE TREATMENT AND REHABILITATION PROGRAM AT THE PERMITTEE'S OWN EXPENSE.

(e) A CIVIL PENALTY NOT TO EXCEED ONE THOUSAND DOLLARS FOR EACH VIOLATION OF THIS CHAPTER OR A RULE ADOPTED UNDER THIS CHAPTER.

(f) A PERIOD AND TERMS OF PROBATION BEST ADAPTED TO PROTECT THE PUBLIC HEALTH AND SAFETY AND REHABILITATE OR ASSESS THE PERMITTEE CONCERNED. PROBATION MAY INCLUDE TEMPORARY SUSPENSION AND ANY OR ALL OF THE DISCIPLINARY ACTIONS, BUSINESS PRACTICE RESTRICTIONS, REHABILITATIVE OR ASSESSMENT PROGRAMS LISTED IN THIS SECTION OR ANY OTHER PROGRAM AGREED TO BY THE BOARD AND THE PERMITTEE.

L. IF THE BOARD FINDS THAT THE INFORMATION PROVIDED PURSUANT TO SUBSECTION D OF THIS SECTION AND ADDITIONAL INFORMATION PROVIDED DURING THE CONFERENCE INDICATES THAT GROUNDS MAY EXIST FOR REVOCATION OR SUSPENSION OF A LICENSE, PROBATION, ISSUANCE OF A DECREE OF CENSURE OR A LETTER OF REPRIMAND OR IMPOSITION OF A CIVIL PENALTY, IT SHALL INITIATE FORMAL PROCEEDINGS PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10.

M. IF THE BOARD FINDS THAT THE INFORMATION PROVIDED PURSUANT TO SUBSECTION D OF THIS SECTION WARRANTS REVOCATION OR SUSPENSION OF A LICENSE, PROBATION, ISSUANCE OF A DECREE OF CENSURE OR A LETTER OF REPRIMAND OR IMPOSITION OF A CIVIL PENALTY, IT SHALL INITIATE FORMAL PROCEEDINGS PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10.

N. IF THE PERMITTEE WISHES TO BE PRESENT AT THE FORMAL HEARING IN PERSON OR BY REPRESENTATION, OR BOTH, THE PERMITTEE MUST FILE WITH THE BOARD AN ANSWER TO THE CHARGES IN THE NOTICE OF HEARING. THE ANSWER MUST BE IN WRITING, VERIFIED UNDER OATH AND FILED WITHIN THIRTY DAYS AFTER SERVICE OF THE NOTICE OF HEARING. FAILURE TO ANSWER THE BOARD'S NOTICE OF HEARING IS DEEMED AN ADMISSION OF THE CHARGES IN THE NOTICE OF HEARING.

O. IF THE BOARD, DURING ANY INVESTIGATION, DETERMINES THAT A CRIMINAL VIOLATION MIGHT HAVE OCCURRED, IT SHALL DISCLOSE ITS INVESTIGATIVE EVIDENCE AND INFORMATION TO THE APPROPRIATE CRIMINAL JUSTICE AGENCY FOR ITS CONSIDERATION.

P. IN DETERMINING THE APPROPRIATE DISCIPLINARY ACTION UNDER THIS SECTION, THE BOARD SHALL CONSIDER ALL PREVIOUS NONDISCIPLINARY AND DISCIPLINARY ACTIONS AGAINST A PERMITTEE.

Q. THE BOARD MAY DENY A PERMIT TO AN APPLICANT FOR THE GROUNDS PRESCRIBED IN SUBSECTION A OF THIS SECTION.

Sec. 9. Section 32-1932.01, Arizona Revised Statutes, is amended to read:

32-1932.01. Substance abuse treatment and rehabilitation program; private contract; funding

A. The board may establish a program for the treatment and rehabilitation of licensees who are impaired by alcohol or drug abuse. This program shall include education, intervention, therapeutic treatment and posttreatment monitoring and support.

B. The board may contract with other organizations to operate the program established pursuant to subsection A of this section. A contract with a private organization shall include the following requirements:

1. Periodic reports to the board regarding treatment program activity.

2. PURSUANT TO A WRITTEN REQUEST BY THE BOARD OR ITS EXECUTIVE DIRECTOR, release ~~to the board on motion and written request~~ of all treatment records.

3. Quarterly reports to the board, by case number, regarding each participant's diagnosis, prognosis and recommendations for continuing care, treatment and supervision.

4. Immediate reporting to the board of the name of an impaired licensee who the treating organization believes to be a danger to self or others.

5. Reports to the board, as soon as possible, of the name of a participant who refuses to submit to treatment or whose impairment is not substantially alleviated through treatment.

C. The board may allocate an amount of not to exceed twenty dollars from each fee it collects from biennial renewal licenses pursuant to section 32-1925 for the operation of the program established by this section.

D. A licensee who is impaired by alcohol or drug abuse may enter into a stipulation order with the board, or the licensee may be placed on probation or be subject to other action as provided by law.

Sec. 10. Section 32-1940, Arizona Revised Statutes, is amended to read:

32-1940. Investigations; hearings; conferences; records; confidentiality

A. Information received and records kept by the board in connection with investigations conducted pursuant to this chapter ~~prior to~~ BEFORE a public hearing OR CONFERENCE are confidential and are not open to the public or subject to civil discovery.

B. Notwithstanding any other law or code of ethics regarding practitioner confidences, the physician-patient privilege between a medical practitioner and a patient, both as it relates to the competency of the witness and to the exclusion of confidential communications, ~~shall~~ DOES not pertain to any board investigations or other proceedings conducted pursuant to this chapter to the extent necessary to determine if a violation of this chapter has occurred. Communications or records disclosed pursuant to this subsection are confidential and may be used only in a judicial or administrative proceeding or investigation resulting from a report, investigation or hearing required or authorized under this chapter.

C. The board, its employees and agents and any other person receiving this information shall keep the identity of the patient confidential at all times.

D. The board shall report evidence of a crime uncovered during an investigation to the appropriate criminal justice agency.

E. ~~Nothing in~~ This section ~~prevents~~ DOES NOT PREVENT the board from disclosing investigative materials concerning a licensee's alleged violation of this chapter to the licensee or ~~his~~ THE LICENSEE'S attorney.

Sec. 11. Section 32-1968, Arizona Revised Statutes, is amended to read:

32-1968. Dispensing prescription-only drug; prescription orders; refills; labels; misbranding; dispensing soft contact lenses

A. A prescription-only drug shall be dispensed only under one of the following conditions:

1. By a medical practitioner in conformance with section 32-1921.

2. On a written prescription order BEARING THE PRESCRIBING MEDICAL PRACTITIONER'S MANUAL SIGNATURE.

3. ON AN ELECTRONICALLY TRANSMITTED PRESCRIPTION ORDER CONTAINING THE PRESCRIBING MEDICAL PRACTITIONER'S ELECTRONIC OR DIGITAL SIGNATURE THAT IS REDUCED PROMPTLY TO WRITING AND FILED BY THE PHARMACIST.

4. ON A WRITTEN PRESCRIPTION ORDER GENERATED FROM ELECTRONIC MEDIA CONTAINING THE PRESCRIBING MEDICAL PRACTITIONER'S ELECTRONIC OR MANUAL SIGNATURE. A PRESCRIPTION ORDER THAT CONTAINS ONLY AN ELECTRONIC SIGNATURE MUST BE APPLIED TO PAPER THAT USES SECURITY FEATURES THAT WILL ENSURE THE PRESCRIPTION ORDER IS NOT SUBJECT TO ANY FORM OF COPYING OR ALTERNATION.

~~3.~~ 5. On an oral prescription order that is reduced promptly to writing and filed by the pharmacist.

~~4.~~ 6. By ~~renewing~~ REFILLING any written, ELECTRONICALLY TRANSMITTED or oral prescription order if a ~~renewal~~ REFILL is authorized by the prescriber either in the original prescription order, BY AN ELECTRONICALLY TRANSMITTED REFILL ORDER THAT IS DOCUMENTED PROMPTLY AND FILED BY THE PHARMACIST or by an oral REFILL order that is ~~reduced~~ DOCUMENTED promptly ~~to writing~~ and filed by the pharmacist.

B. A prescription order shall not be ~~renewed~~ REFILLED if it is either:

1. Ordered by the prescriber not to be ~~renewed~~ REFILLED.

2. More than one year since it was originally ordered.

C. A prescription order shall contain the date it was issued, the name and address of the person for whom or owner of the animal for which the drug is ordered, REFILLS AUTHORIZED, IF ANY, THE LEGIBLY PRINTED NAME, ADDRESS AND TELEPHONE NUMBER OF THE PRESCRIBING MEDICAL PRACTITIONER, the name, strength, dosage form and quantity of the drug ordered and directions for its use. ~~A written prescription order shall contain the printed name of the prescriber.~~

D. Any drug dispensed in accordance with subsection A of this section is exempt from the requirements of section 32-1967, except subsection A, paragraphs 1, 10 and 11 and the packaging requirements of subsection A, paragraphs 7 and 8, if the drug container bears a label containing the name and address of the dispenser, serial number, date of dispensing, name of the prescriber, name of the patient, or, if an animal, the name of the owner of the animal and the species of the animal, directions for use and cautionary statements, if any, contained in the order. This exemption does not apply to any drug dispensed in the course of the conduct of a business of dispensing drugs pursuant to diagnosis by mail or the internet or to a drug dispensed in violation of subsection A of this section.

E. The board may also by rule require additional information on the label of prescription medication that the board believes to be necessary for the best interest of the public's health and welfare.

F. A prescription-only drug or a controlled substance that requires a prescription order is deemed to be misbranded if, at any time before dispensing, its label fails to bear the statement "Rx only". A drug to which subsection A of this section does not apply is deemed to be misbranded if, at any time before dispensing, its label bears the caution statement quoted in this subsection.

G. A pharmacist may fill a prescription order for soft contact lenses only as provided in this chapter.

Sec. 12. Section 36-2513, Arizona Revised Statutes, is amended to read:

36-2513. Substances in schedule II

A. The following controlled substances are, unless specifically excepted, included in schedule II:

1. Any of the following substances, whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis or by combination of extraction and chemical synthesis:

(a) Opium and opiate and any salt, compound, derivative or preparation of opium or opiate, excluding apomorphine, dextrorphan, nalbuphine, naloxone and naltrexone and their respective salts, but including the following:

(i) Raw opium.
(ii) Opium extracts.
(iii) Opium fluid extracts.
(iv) Powdered opium.
(v) Granulated opium.
(vi) Tincture of opium.
(vii) Codeine.
(viii) Ethylmorphine.
(ix) Etorphine hydrochloride.
(x) Hydrocodone.
(xi) Hydromorphone.
(xii) Metopon.
(xiii) Morphine.
(xiv) Oxycodone.
(xv) Oxymorphone.
(xvi) Thebaine.
(xvii) Levo-alphacetylmethadol.

(b) Any salt, compound, derivative or preparation thereof which is chemically equivalent or identical with any of the substances referred to in subdivision (a) of this paragraph, except that these substances shall not include the isoquinoline alkaloids of opium.

(c) Opium poppy and poppy straw.

(d) Coca leaves and any salt, compound, derivative or preparation of coca leaves, including cocaine and its optical isomers and any salt, compound, derivative or preparation thereof which is chemically equivalent or identical with any of these substances, except that the substances shall not include decocainized coca leaves or extraction of coca leaves, which extractions do not contain cocaine or ecgonine.

(e) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid or powder form which contains the phenanthrine alkaloids of the opium poppy).

2. Any of the following, including opiates and isomers, esters, ethers, salts and salts of isomers of the following, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation, dextrorphan excepted:

(a) Alfentanil.
(b) Alphaprodine.
(c) Anileridine.
(d) Bezitramide.
(e) Carfentanil.
(f) Dihydrocodeine.
(g) Diphenoxylate.
(h) Fentanyl.
(i) Isomethadone.
(j) Levomethorphan.

(k) Levorphanol.
(l) Metazocine.
(m) Methadone.
(n) Methadone--intermediate, 4-cyano-2-dimethylamino-4, 4-diphenylbutane.
(o) Moramide--intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid.
(p) Nabilone.
(q) Pethidine (MEPERIDINE).
(r) Pethidine--intermediate--A, 4-cyano-1-methyl-4-phenylpiperidine.
(s) Pethidine--intermediate--B, ethyl-4-phenylpiperidine-4-carboxylate.
(t) Pethidine--intermediate--C, 1-methyl-4-phenylpiperidine-4-carboxylic acid.
(u) Phenazocine.
(v) Phenylacetone.
(w) 1-(2-phenylethyl)-4-phenyl-4-acetyloxpiperidine (pepap), including its optical isomers, salts and salts of isomers.
(x) Piminodine.
(y) Racemethorphan.
(z) Racemorphan.
(aa) Sufentanil.
(bb) Remifentanil.

3. Any material, compound, mixture or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:
(a) Amphetamine and its salts, optical isomers and salts of its optical isomers.
(b) Methamphetamine, including its salts, isomers and salts of isomers.
(c) Phenmetrazine and its salts.
(d) Methylphenidate.

4. Any material, compound, mixture or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system, including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:
(a) Amobarbital.
(b) Glutethimide.
(c) Pentobarbital.
(d) Phencyclidine.
(e) Phencyclidine immediate precursors:
(i) 1-phenylcyclohexylamine.
(ii) 1-piperidinocyclohexanecarbonitrile (PCC).

(f) Secobarbital.

B. The board may except by rule any compound, mixture or preparation containing any substance listed in this section from the application of all or any part of this chapter if the compound, mixture or preparation contains one or more active medicinal ingredients and if the admixtures are included therein in combinations, quantity, proportion or concentration that vitiates the potential for abuse.

Sec. 13. Section 36-2523, Arizona Revised Statutes, is amended to read:

36-2523. Records of registrants; inspection; confidentiality

A. Persons registered to manufacture, distribute or dispense controlled substances under this chapter shall keep records and maintain inventories in conformance with the record keeping and inventory requirements of federal law and title 32, chapter 18, and with any additional rules the board issues. PRESCRIPTION ORDERS MUST BE FILED AS REQUIRED BY SECTION 36-2525.

B. A person who holds a permit to operate a pharmacy issued under title 32, chapter 18 shall inventory schedule II, III, IV and V controlled substances as prescribed by federal law. The permit holder shall conduct this inventory on May 1 of each year or as directed by the Arizona state board of pharmacy. The permit holder shall also conduct this inventory if there is a change of ownership or discontinuance of business or within ten days of a change of a pharmacist in charge.

C. These records and inventories shall be open for inspection by peace officers in the performance of their duties. An officer shall not divulge information obtained pursuant to this subsection except in connection with a prosecution, investigation, judicial proceeding or administrative proceeding in which the person to whom the information relates is a party.

Sec. 14. Section 36-2525, Arizona Revised Statutes, is amended to read:

36-2525. Prescription orders; labels

A. In addition to requirements in section 32-1968, pertaining to prescription orders for prescription-only drugs, the prescription order for a controlled substance shall bear the name, address and federal registration number of the prescriber. ~~Prescription orders for controlled substances shall be filed and records kept in conformity with the requirements of section 36-2523.~~ A prescription order for a SCHEDULE II controlled substance drug other than a hospital drug order for a hospital inpatient shall contain only one drug order per prescription blank. IF AUTHORIZED VERBALLY BY THE PRESCRIBER, THE PHARMACIST MAY MAKE CHANGES TO CORRECT ERRORS OR OMISSIONS MADE BY THE PRESCRIBER ON THE FOLLOWING PARTS OF A WRITTEN SCHEDULE II CONTROLLED SUBSTANCE PRESCRIPTION ORDER:

1. THE DATE ISSUED.
2. THE STRENGTH, DOSAGE FORM OR QUANTITY OF DRUG.
3. THE DIRECTIONS FOR ITS USE.

B. THE PHARMACIST MUST DOCUMENT ON THE ORIGINAL PRESCRIPTION ORDER THE CHANGES THAT WERE MADE PURSUANT TO THE VERBAL AUTHORIZATION AND RECORD THE TIME AND DATE THE AUTHORIZATION WAS GRANTED.

C. A PERSON REGISTERED TO DISPENSE CONTROLLED SUBSTANCES UNDER THIS CHAPTER MUST KEEP AND MAINTAIN PRESCRIPTION ORDERS FOR CONTROLLED SUBSTANCES AS FOLLOWS:

1. PRESCRIPTION ORDERS FOR CONTROLLED SUBSTANCES LISTED IN SCHEDULES I AND II MUST BE MAINTAINED IN A SEPARATE PRESCRIPTION FILE FOR CONTROLLED SUBSTANCES LISTED IN SCHEDULES I AND II ONLY.

2. PRESCRIPTION ORDERS FOR CONTROLLED SUBSTANCES LISTED IN SCHEDULES III, IV AND V MUST BE MAINTAINED EITHER IN A SEPARATE PRESCRIPTION FILE FOR CONTROLLED SUBSTANCES LISTED IN SCHEDULES III, IV AND V ONLY OR IN A FORM THAT ALLOWS THEM TO BE READILY RETRIEVABLE FROM THE OTHER PRESCRIPTION RECORDS OF THE REGISTRANT. FOR THE PURPOSES OF THIS PARAGRAPH, "READILY RETRIEVABLE" MEANS THAT WHEN THE PRESCRIPTION IS INITIALLY FILED, THE FACE OF THE PRESCRIPTION IS STAMPED IN RED INK IN THE LOWER RIGHT CORNER WITH THE LETTER "C" IN A FONT THAT IS NOT LESS THAN ONE INCH HIGH AND THAT THE PRESCRIPTION IS FILED IN THE USUAL CONSECUTIVELY NUMBERED PRESCRIPTION FILE FOR NONCONTROLLED SUBSTANCE PRESCRIPTIONS. THE REQUIREMENT TO STAMP THE HARD COPY PRESCRIPTION WITH A RED "C" IS WAIVED IF A REGISTRANT EMPLOYS AN ELECTRONIC DATA PROCESSING SYSTEM OR OTHER ELECTRONIC RECORD KEEPING SYSTEM FOR PRESCRIPTIONS THAT PERMITS IDENTIFICATION BY PRESCRIPTION NUMBER AND RETRIEVAL OF ORIGINAL DOCUMENTS BY PRESCRIBER'S NAME, PATIENT'S NAME, DRUG DISPENSED AND DATE FILLED.

~~B.~~ D. Except in emergency situations in conformity with subsection ~~C~~ E of this section, UNDER THE CONDITIONS SPECIFIED IN SUBSECTIONS F, G AND H OF THIS SECTION or when dispensed directly by a medical practitioner to an ultimate user, a controlled substance in schedule II shall not be dispensed without the written prescription order in ink or indelible pencil or typewritten and manually signed by the medical practitioner. A prescription order for a schedule II substance shall not be dispensed more than sixty days after the date on which the prescription order was issued. A prescription order for a schedule II substance shall not be refilled.

~~C.~~ E. In emergency situations, emergency quantities of schedule II substances may be dispensed on an oral prescription order of a medical practitioner. Such an emergency prescription order shall be immediately reduced to writing by the pharmacist and shall contain all the information required for schedule II drugs except for the manual signing of the order by the medical practitioner. Within seven days after authorizing an emergency oral prescription order, the prescribing medical practitioner shall cause a written prescription order manually signed for the emergency quantity prescribed to be delivered to the dispensing pharmacist. In addition to conforming to other requirements for prescription orders for schedule II substances, it shall have written on its face "authorization for emergency dispensing" and the date of the oral order. If the prescribing medical

practitioner fails to deliver such an emergency prescription order within seven days in conformance with board rules, the pharmacist shall notify the board. Failure of the pharmacist to notify the board shall void the authority conferred by this subsection to dispense without a written, manually-signed prescription order of a medical practitioner.

F. THE FOLLOWING MAY BE TRANSMITTED TO A PHARMACY BY FACSIMILE BY A PATIENT'S MEDICAL PRACTITIONER OR THE MEDICAL PRACTITIONER'S AGENT:

1. A PRESCRIPTION ORDER WRITTEN FOR A SCHEDULE II NARCOTIC CONTROLLED SUBSTANCE TO BE COMPOUNDED FOR THE DIRECT ADMINISTRATION TO A PATIENT BY PARENTERAL, INTRAVENOUS, INTRAMUSCULAR, SUBCUTANEOUS OR INTRASPINAL INFUSION.

2. A PRESCRIPTION ORDER WRITTEN FOR ANY SCHEDULE II CONTROLLED SUBSTANCE FOR A RESIDENT OF A LONG-TERM CARE FACILITY.

3. A PRESCRIPTION ORDER WRITTEN FOR A SCHEDULE II NARCOTIC CONTROLLED SUBSTANCE FOR A PATIENT ENROLLED IN A HOSPICE CARE PROGRAM CERTIFIED OR PAID FOR BY MEDICARE UNDER TITLE XVIII OR A HOSPICE PROGRAM THAT IS LICENSED BY THIS STATE. THE MEDICAL PRACTITIONER OR THE MEDICAL PRACTITIONER'S AGENT MUST NOTE ON THE PRESCRIPTION THAT THE PATIENT IS A HOSPICE PATIENT.

G. A FACSIMILE TRANSMITTED PURSUANT TO SUBSECTION F OF THIS SECTION IS THE ORIGINAL WRITTEN PRESCRIPTION ORDER FOR PURPOSES OF THIS SECTION AND MUST BE MAINTAINED AS REQUIRED BY SUBSECTION C OF THIS SECTION.

~~D.~~ H. Except when dispensed directly by a medical practitioner to an ultimate user, a controlled substance included in schedule III or IV ~~which~~ THAT requires a prescription order as determined under state or federal laws shall not be dispensed without a written or oral prescription order of a medical practitioner. The prescription order shall not be filled or refilled more than six months after the date on which the prescription order was issued. A prescription order authorized to be refilled shall not be refilled more than five times. Additional quantities may only be authorized by the prescribing medical practitioner through issuance of a new prescription order which shall be treated by the pharmacist as a new and separate prescription order.

~~E.~~ I. Except when dispensed directly by a medical practitioner to an ultimate user, a controlled substance that is included in schedule V and that requires a prescription order as determined under state or federal laws shall not be dispensed without a written or oral prescription order of a medical practitioner. The prescription order may be refilled as authorized by the prescribing medical practitioner but shall not be filled or refilled more than one year after the date of issuance.

~~F.~~ J. A controlled substance that is listed in schedule III, IV or V and that does not require a prescription order as determined under state or federal laws may be dispensed at retail by a pharmacist, ~~or~~ a pharmacy intern OR A GRADUATE INTERN under the pharmacist's supervision, without a prescription order to a purchaser at least eighteen years of age provided that all of the following are true:

1. It is for a legitimate medical purpose.

2. Not more than two hundred forty cubic centimeters (eight ounces) of any such controlled substance containing opium, nor more than one hundred twenty cubic centimeters (four ounces) of any other such controlled substance, nor more than forty-eight dosage units of any such controlled substance containing opium, nor more than twenty-four dosage units of any other controlled substance may be dispensed at retail to the same purchaser in any given forty-eight hour period.

3. No more than one hundred dosage units of any single active ingredient ephedrine preparation may be sold, offered for sale, bartered, or given away to any one person in any one thirty-day period.

4. The pharmacist, ~~or~~ pharmacy intern~~,~~ OR GRADUATE INTERN requires every purchaser of a controlled substance under this subsection not known to ~~him~~ THAT PERSON to furnish suitable identification, including proof of age where appropriate.

5. A bound record book for dispensing controlled substances under this subsection is maintained by the pharmacist~~, which book shall contain~~ AND CONTAINS the name and address of the purchaser, the name and quantity of the controlled substance purchased, the date of each purchase and the name or initials of the pharmacist, ~~or~~ pharmacy intern OR GRADUATE INTERN who dispensed the substance to the purchaser. Such book shall be maintained in conformity with the record keeping requirements of section 36-2523.

~~G.~~ K. In the absence of a law requiring a prescription for a schedule V controlled substance, the board may by rules require, or remove the requirement of, a prescription order for a schedule V controlled substance.

~~H.~~ L. The label on a container of a controlled substance directly dispensed by a medical practitioner or pharmacist, not for the immediate administration to the ultimate user, such as a bed patient in a hospital, shall bear the name and address of the dispensing medical practitioner or pharmacist, the serial number, date of dispensing, name of prescriber, name of patient or, if an animal, the name of the owner of the animal and the species of the animal, directions for use and cautionary statements, if any, contained in the prescription order or required by law. If the controlled substance is included in schedule II, III or IV the label shall bear a transfer warning to the effect: "Caution: federal law prohibits the transfer of this drug to any person other than the patient for whom it was prescribed".

~~I.~~ M. The board ~~may~~, by rule, MAY provide additional requirements for prescribing and dispensing controlled substances.

APPROVED BY THE GOVERNOR APRIL 27, 2005.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 27, 2005.

Passed the House April 20, 2005,

by the following vote: 47 Ayes,

12 Nays, 1 Not Voting

Speaker of the House

Pro Tempore

Herman L. Moore

Chief Clerk of the House

Passed the Senate February 28, 2005,

by the following vote: 28 Ayes,

0 Nays, 2 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

21st day of April, 2005,

at 12:19 o'clock P. M.

Secretary to the Governor

Approved this 27 day of

April, 2005,

at 10:05 o'clock A. M.

Governor of Arizona

S.B. 1126

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 27 day of April, 2005

at 11:05 o'clock A. M.

Secretary of State